

(PRE-FILED)

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Mohorovic, Finifter, Frank, Howard, and Harrison

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Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: February 29, 1996

CHAPTER _____

1 AN ACT concerning

2 **Brownfields - Voluntary Cleanup and Revitalization Programs**

3 FOR the purpose of establishing a Voluntary Cleanup Program in the Maryland
4 Department of the Environment (MDE); establishing a Voluntary Cleanup Fund
5 administered by MDE; requiring MDE to adopt certain regulations; requiring
6 certain moneys in the Fund to be used for certain purposes; requiring MDE to
7 maintain a certain balance in the Fund for certain purposes; authorizing MDE to
8 seek cost recovery under certain circumstances; authorizing MDE to allocate
9 moneys to maintain a certain reserve balance in the Fund under certain
10 circumstances; providing that certain recovered moneys shall be used to maintain a
11 certain balance; requiring an applicant to the Program to submit certain
12 information to MDE and pay a certain fee; authorizing MDE to reimburse an
13 applicant under certain circumstances; requiring an applicant to pay a certain
14 oversight fee by a certain time; requiring MDE to notify an applicant within a
15 certain time whether ~~a property is eligible property~~ the applicant is eligible under
16 the Program; requiring a proposed response action plan to include certain
17 information; authorizing an applicant to select certain criteria when proposing a
18 response action plan; authorizing an applicant to withdraw from the Program;
19 ~~requiring MDE to return certain documents under certain circumstances an~~
20 ~~applicant who withdraws to notify MDE and forfeit certain fees; authorizing a~~
21 ~~certain applicant to withdraw from the Program in a certain time period; providing~~
22 ~~that certain letters are void with certain exceptions;~~ requiring MDE to approve a
23 response action plan under certain circumstances; requiring MDE to adopt
24 regulations developing standards for certain criteria; ~~altering a certain definition for~~

1 ~~certain purposes~~ requiring MDE to consider certain factors when approving a
2 certain response action plan; requiring MDE to review certain standards in a
3 certain time period and authorizing MDE to revise the standards; authorizing MDE
4 to approve the use of certain remedies; requiring MDE to notify the applicant of a
5 certain decision within a certain time period after taking into account certain
6 writtent comments; requiring MDE to consider certain factors before notifying an
7 applicant of a certain decision; authorizing MDE to issue letters of assurance ~~and~~
8 certain liability releases for certain purposes; requiring MDE to issue a certain
9 letter which contains a liability release after the approval of a response action plan
10 and within a certain time period; requiring the applicant to notify MDE that a
11 response action plan has been completed; requiring MDE to issue a certain letter
12 which contains a liability release after the completion of a response action plan and
13 under certain circumstances; providing that a certain requirement will not delay the
14 issuance of a certain letter; authorizing an applicant to receive a certain letter under
15 certain circumstances; providing that an applicant that receives a certain ~~liability~~
16 release letter is not liable to MDE or other persons for certain costs at an eligible
17 property under certain circumstances; providing that ~~liability releases~~ certain letters
18 will not prevent certain actions and will not remain in effect under certain
19 circumstances; requiring an applicant to record a certain letter in the land records
20 in a certain time period; providing that an owner of eligible property is responsible
21 for certain costs under certain circumstances; requiring public notification ~~under~~
22 ~~certain circumstances~~ by the applicant after the submission of a completed response
23 action plan; providing that certain sections of the Environment Article shall apply to
24 enforce certain violations; requiring MDE to appoint an environmental liaison;
25 providing that this Act does not affect the planning and zoning authority of a county
26 or municipal corporation, certain tort actions, and the ability of certain applicants to
27 seek cost recovery against certain persons; establishing a Brownfields Revitalization
28 Program in the Department of Business and Economic Development (DBED);
29 ~~requiring~~ authorizing DBED to select Brownfields sites based on certain criteria;
30 requiring DBED to publish a list of Brownfields sites; requiring DBED to consult
31 with certain persons during a certain time; establishing a property tax credit for a
32 certain period of time and for a certain amount; authorizing a taxing jurisdiction to
33 grant a property tax credit up to a certain amount; authorizing a taxing jurisdiction
34 to extend a property tax credit in a designated enterprise zone for an additional
35 time period; requiring a taxing jurisdiction to contribute to the Voluntary Cleanup
36 Fund for a certain period of time and for a certain amount; requiring MDE to
37 report to the Governor and the General Assembly on the status of the Program by
38 a certain date; requiring MDE to report to the General Assembly on fees and the
39 use of the Voluntary Cleanup Fund by a certain date; defining certain terms; and
40 generally relating to the establishment of a Voluntary Cleanup Program and
41 Brownfields Revitalization Program.

42 BY repealing and reenacting, ~~with~~ without amendments,
43 Article - Environment
44 Section ~~4-401(f) and~~ 7-201(x)
45 Annotated Code of Maryland
46 (1993 Replacement Volume and 1995 Supplement)

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1 BY adding to
 2 Article - Environment
 3 Section 4-405(d)
 4 Annotated Code of Maryland
 5 (1993 Replacement Volume and 1995 Supplement)

6 BY adding to
 7 Article - Environment
 8 Section 7-501 through ~~7-512~~ 7-518, inclusive, to be under the new subtitle "Subtitle
 9 5. Voluntary Cleanup Program"
 10 Annotated Code of Maryland
 11 (1993 Replacement Volume and 1995 Supplement)

12 BY adding to
 13 Article 83A - Department of Business and Economic Development
 14 Section 3-901 through ~~3-903~~ 3-904, inclusive, to be under the new subtitle "Subtitle
 15 9. Brownfields Revitalization Program"
 16 Annotated Code of Maryland
 17 (1995 Replacement Volume)

18 BY adding to
 19 Article - Tax - Property
 20 Section 9-109
 21 Annotated Code of Maryland
 22 (1994 Replacement Volume and 1995 Supplement)

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

25 **Article - Environment**

26 ~~4-401.~~

27 ~~(f)(1) "Management" means directing or controlling operations at a site or~~
 28 ~~facility related to the storage or discharge of oil.~~

29 ~~(2) "Management" does not include:~~

30 ~~(i) [rendering] RENDERING advice on financial matters, rendering~~
 31 ~~financial assistance, or actions taken to protect or secure a site or facility or property~~
 32 ~~located on the site or at the facility, if the advice, assistance, or actions do not involve the~~
 33 ~~storage, disposal, or remediation of discharged oil[.]; OR~~

34 ~~(ii) ANY ACTION TAKEN TO PROTECT ASSETS OR A SECURITY~~
 35 ~~INTEREST, INCLUDING RIGHTS UNDER A MORTGAGE, DEED OF TRUST,~~
 36 ~~ASSIGNMENT, JUDGMENT, LIEN, PLEDGE, SECURITY AGREEMENT, FACTORING~~
 37 ~~AGREEMENT, LEASE, OR ANY OTHER RIGHT ACCRUING TO A PERSON TO SECURE~~
 38 ~~THE REPAYMENT OF MONEY, THE PERFORMANCE OF A DUTY, OR SOME OTHER~~

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1 ~~OBLIGATION IF THERE IS NO KNOWING AND WILLFUL VIOLATION OF ANY~~
2 ~~APPLICABLE LAW OR REGULATION UNDER THIS SUBTITLE.~~

3 4-405.

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

9 7-201.

10 (x) (1) "Responsible person" means any person who:

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

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

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

20 (iv) Accepts or accepted any hazardous substance for transport to a
21 disposal or treatment facility or any sites selected by the person.

22 (2) "Responsible person" does not include:

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

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

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

38 (iv) A holder of a mortgage or deed of trust on a site containing a
39 hazardous substance or a holder of a security interest in property located on the site who

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1 does not participate in the day-to-day management of the site unless that holder directly
2 causes the discharge of a hazardous substance on or from the site;

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

7 1. Participates in the day-to-day management of the site or
8 property; or

9 2. Directly causes the discharge of a hazardous substance on or
10 from the site;

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

13 1. Does not participate in the day-to-day management of the
14 site; and

15 2. Does not directly cause the discharge of a hazardous
16 substance on or from the site; or

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

19 1. A State, county, or municipal government;

20 2. Any other political subdivision of the State; or

21 3. Any unit of a State, county, or municipal government or any
22 other political subdivision.

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

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

29 1. Obtained actual knowledge of the release or threatened
30 release of a hazardous substance at a site when the person owned the real property; and

31 2. Transferred ownership of the property after June 30, 1991
32 without disclosing this knowledge to the transferee.

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

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

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

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

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

11 (ii) "Management" does not include:

12 1. ~~rendering~~ ~~RENDERING~~ advice on financial matters,
13 rendering financial assistance, or actions taken to protect or secure the site or property
14 located on the site if the advice, assistance, or actions do not involve the treatment,
15 storage, or disposal of a hazardous substance or remediation of a hazardous substance
16 release. ~~;~~ ~~OR~~

17 2. ~~ANY ACTION TO PROTECT ASSETS OR A SECURITY~~
18 ~~INTEREST, INCLUDING RIGHTS UNDER A MORTGAGE, DEED OF TRUST,~~
19 ~~ASSIGNMENT, JUDGMENT, LIEN, PLEDGE, SECURITY AGREEMENT, FACTORING~~
20 ~~AGREEMENT, LEASE, OR ANY OTHER RIGHT ACCRUING TO A PERSON TO SECURE~~
21 ~~THE REPAYMENT OF MONEY, THE PERFORMANCE OF A DUTY, OR SOME OTHER~~
22 ~~OBLIGATION IF THERE IS NO KNOWING AND WILLFUL VIOLATION OF ANY~~
23 ~~APPLICABLE LAW OR REGULATION UNDER THIS TITLE.~~

24 SUBTITLE 5. VOLUNTARY CLEANUP PROGRAM.

25 7-501.

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

28 (B) "APPLICANT" MEANS A PERSON WHO:

29 1. ~~APPLIES TO PARTICIPATE IN THE VOLUNTARY CLEANUP PROGRAM;~~
30 ~~AND~~

31 2. ~~HAS NOT CAUSED A RELEASE BY KNOWINGLY AND WILFULLY~~
32 ~~VIOLATING ANY LAW OR REGULATION CONCERNING OIL OR CONTROLLED~~
33 ~~HAZARDOUS SUBSTANCES.~~

34 (C) (1) "ASSURANCE LETTER" MEANS A LETTER FROM THE DEPARTMENT
35 AVAILABLE TO AN APPLICANT ON APPROVAL BY THE DEPARTMENT OF A PLANNED
36 OR COMPLETED VOLUNTARY INVESTIGATION OR RESPONSE ACTION PLAN AS
37 PROVIDED IN § 7-509 OF THIS SUBTITLE.

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

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1 (D) "BACKGROUND LEVEL" MEANS ~~THE CONCENTRATION OF A~~
2 ~~CONTAMINANT THAT IS PRESENT AT AN ELIGIBLE PROPERTY BUT IS NOT RELATED~~
3 ~~TO ANY RELEASE AT THE ELIGIBLE PROPERTY~~ THE LEVEL OF A SUBSTANCE
4 OCCURRING NATURALLY AT THE SITE PRIOR TO ANY MANMADE SPILL OR RELEASE.

5 (E) "CONTAMINATION" MEANS A RELEASE, DISCHARGE, OR THREATENED
6 RELEASE OF:

7 ~~(1) A CONTROLLED HAZARDOUS SUBSTANCE, AS DEFINED IN § 7-201 OF~~
8 ~~THIS TITLE; OR~~

9 ~~(2) OIL, AS DEFINED IN § 4-401 OF THIS ARTICLE.~~

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

15 ~~(F)~~ (G) (1) "ELIGIBLE PROPERTY" MEANS A SITE PROPERTY THAT IS
16 SUSPECTED TO BE CONTAMINATED OR THAT IS CONTAMINATED.

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

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

21 (II) SUBJECT TO AN ENFORCEMENT ACTION TAKEN BY THE
22 DEPARTMENT UNDER THIS SUBTITLE OR TITLE 4 OF THIS ARTICLE UNDER AN
23 UNRESOLVED ENFORCEMENT ACTION AGAINST AN APPLICANT TAKEN UNDER THIS
24 TITLE;

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

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

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

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

33 ~~(G)~~ (I) (1) "LIABILITY RELEASE LETTER" MEANS A STATEMENT ISSUED
34 BY THE DEPARTMENT UNDER ~~§ 7-508~~ § 7-510 OR § 7-511 OF THIS SUBTITLE:

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

38 (II) STATING THAT THE DEPARTMENT MAY NOT REQUIRE
39 ADDITIONAL ACTIVITIES AND MAY NOT SEEK COST RECOVERY FOR ACTIVITIES

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1 CONDUCTED BY THE DEPARTMENT EXCEPT AS PROVIDED IN ~~§ 7-508(D)~~ § 7-512 OF
2 THIS SUBTITLE .

3 (2) A ~~LIABILITY RELEASE~~ LETTER MAY INCLUDE A LIMITATION ON THE
4 PERMISSIBLE USES OF THE PROPERTY.

5 (J) "PREVIOUSLY UNDISCOVERED CONTAMINATION" MEANS
6 CONTAMINATION AT AN ELIGIBLE PROPERTY WHICH WAS NOT ADDRESSED OR
7 DESCRIBED IN THE RESPONSE ACTION PLAN.

8 (K) "PROGRAM" MEANS THE VOLUNTARY CLEANUP PROGRAM ESTABLISHED
9 UNDER THIS SUBTITLE.

10 ~~(H)~~ (L) "RESPONSIBLE PERSON" ~~MEANS A PERSON AS DEFINED BY~~ HAS THE
11 MEANING STATED IN § 7-201(X) OF THIS TITLE.

12 7-502.

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

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

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

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

22 7-503.

23 (A) THERE IS A VOLUNTARY CLEANUP FUND.

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

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

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

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

37 (I) USED BY THE DEPARTMENT FOR ACTIVITIES DIRECTLY
38 ASSOCIATED WITH A VOLUNTARY CLEANUP PROJECT IF AN APPLICANT FAILS TO

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1 COMPLETE A VOLUNTARY CLEANUP PROJECT OR § 7-512(B) OR (C) APPLIES AND AN
2 APPLICANT OR A RESPONSIBLE PERSON IS UNAVAILABLE; AND

3 (II) USED BY THE DEPARTMENT OF BUSINESS AND ECONOMIC
4 DEVELOPMENT FOR FINANCIAL INCENTIVES AS PROVIDED FOR IN ARTICLE 83A, §
5 3-903(D) OF THE CODE.

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

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

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

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

22 ~~7-503.~~ 7-504.

23 (A) THERE IS A VOLUNTARY CLEANUP PROGRAM ~~ADMINISTERED BY~~ IN THE
24 DEPARTMENT.

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

26 (1) ~~PROVIDE FOR~~ ENCOURAGE THE ~~VOLUNTARY~~ INVESTIGATION OF
27 ELIGIBLE PROPERTIES WITH KNOWN OR SUSPECTED CONTAMINATION;

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

31 (3) ACCELERATE ~~VOLUNTARY~~ CLEANUP OF ELIGIBLE PROPERTIES, ~~IF~~
32 ~~CONTAMINATED~~; AND

33 (4) PROVIDE PREDICTABILITY AND FINALITY TO THE ~~VOLUNTARY~~
34 CLEANUP OF ELIGIBLE PROPERTIES.

35 ~~7-504.~~ 7-505.

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

37 (1) SUBMIT TO THE DEPARTMENT A SPECIFIC REQUEST FOR THE TYPE
38 OF ~~LIABILITY RELEASE~~ LETTER AS PROVIDED IN ~~§ 7-508~~ § 7-510 OR § 7-511 OF THIS
39 SUBTITLE OR AN ASSURANCE LETTER ~~SOUGHT BY THE APPLICANT~~ AS PROVIDED IN

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1 § 7-509 OF THIS SUBTITLE, THAT THE PERSON SEEKS, TOGETHER WITH
2 INFORMATION SUFFICIENT FOR THE DEPARTMENT TO MAKE THE REQUESTED
3 DETERMINATION UNDER §§ 7-509, 7-510, AND 7-511 OF THIS SUBTITLE;

4 (2) PROVIDE INFORMATION DEMONSTRATING TO THE SATISFACTION
5 OF THE DEPARTMENT THAT THE CONTAMINATION DID NOT RESULT FROM ANY
6 VIOLATION BY THE APPLICANT KNOWINGLY OR WILLFULLY VIOLATING OF ANY
7 LAW OR REGULATION CONCERNING OIL OR CONTROLLED HAZARDOUS
8 SUBSTANCES THE CONTROL OF HAZARDOUS SUBSTANCES WHICH WOULD SUBJECT
9 THE APPLICANT TO CRIMINAL PENALTIES;

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

12 ~~(3)~~ (4) DESCRIBE, IN SUMMARY FORM, A PROPOSED VOLUNTARY
13 CLEANUP PROJECT THAT INCLUDES THE PROPOSED CLEANUP CRITERIA UNDER §
14 7-507 OF THIS SUBTITLE AND THE PROPOSED FUTURE USE OF THE PROPERTY; AND

15 ~~(4)~~ (5) PAY TO THE DEPARTMENT AN APPLICATION FEE BETWEEN
16 \$1,000 AND \$10,000 DEPENDING ON THE COSTS ANTICIPATED BY THE DEPARTMENT IN
17 ADMINISTERING AND OVERSEEING THE VOLUNTARY CLEANUP PROJECT OF:

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

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

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

27 (1) LISTED ON CERCLIS AND DESIGNATED AS "NO FURTHER ACTION
28 REMEDIAL ACTION PLANNED";

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

31 (3) BEING ACTIVELY INVESTIGATED UNDER THIS TITLE.

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

34 ~~(B)~~ (D) (1) THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN
35 WRITING, WITHIN 45 30 DAYS AFTER THE DATE OF RECEIPT THE NOTIFICATION OF A
36 COMPLETE APPLICATION, WHETHER THE PROPERTY IS AN ELIGIBLE PROPERTY
37 APPLICATION MEETS THE REQUIREMENTS FOR PARTICIPATION IN THE PROGRAM.

38 ~~(C)~~ (2) IF THE APPLICATION IS NOT ACCEPTED APPROVED, THE
39 DEPARTMENT SHALL RETURN TO THE APPLICANT, WITHIN 45 DAYS, THAT PART OF

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1 THE APPLICATION FEE THAT IS NOT USED TO COVER THE COSTS OF THE
2 DEPARTMENT IN REVIEWING THE ~~VOLUNTARY CLEANUP PROJECT~~ APPLICATION.

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

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

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

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

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

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

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

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

27 ~~(D)~~ (G) THE DEPARTMENT SHALL USE THE APPLICATION FEE FEES
28 COLLECTED UNDER THIS SECTION TO COVER COSTS OF ADMINISTRATION OF THE
29 VOLUNTARY CLEANUP PROGRAM AND THE OVERSIGHT OF VOLUNTARY CLEANUP
30 PROJECTS.

31 ~~(E)~~ AFTER COMPLETION OF A VOLUNTARY CLEANUP PROJECT, THE
32 DEPARTMENT MAY:

33 ~~(1)~~ REIMBURSE THE APPLICANT FOR THE PORTION OF THE
34 APPLICATION FEE THAT WAS NOT SPENT BY THE DEPARTMENT IN THE
35 ADMINISTRATION AND OVERSIGHT OF THE VOLUNTARY CLEANUP PROJECT; OR

36 ~~(2)~~ REQUIRE THE APPLICANT TO PAY TO THE DEPARTMENT THE
37 ADDITIONAL AMOUNT SPENT BY THE DEPARTMENT IN THE ADMINISTRATION AND
38 OVERSIGHT OF THE VOLUNTARY CLEANUP PROJECT, LEGAL COSTS, OTHER DIRECT
39 COSTS RELATED TO THE IMPLEMENTATION OF THE PROGRAM, AND THE COSTS OF
40 OVERSEEING THE VOLUNTARY CLEANUP PROJECTS.

12

1 ~~7-505. 7-506.~~

2 (A) (1) ~~AFTER AN APPLICANT RECEIVES A NOTICE OF ELIGIBILITY THE~~
3 ~~DEPARTMENT APPROVES THE APPLICATION,~~ THE APPLICANT SHALL PROPOSE A
4 RESPONSE ACTION PLAN ~~NECESSARY TO THAT WILL~~ ACHIEVE THE CLEANUP
5 ~~STANDARDS IN § 7-506~~ CRITERIA SELECTED UNDER § 7-507 OF THIS SUBTITLE.

6 (2) THE PROPOSED RESPONSE ACTION PLAN SHALL INCLUDE:

7 (I) ~~A SUMMARY OF DETAILED REPORT WITH ALL~~ AVAILABLE
8 RELEVANT INFORMATION ON ENVIRONMENTAL CONDITIONS INCLUDING
9 CONTAMINATION AT THE ELIGIBLE PROPERTY KNOWN TO THE APPLICANT AT THE
10 TIME OF THE APPLICATION; ~~AND~~

11 (II) ~~AN ALL ENVIRONMENTAL SITE ASSESSMENT OR ASSESSMENTS.~~

12 ~~(3) THE PROPOSED RESPONSE ACTION PLAN MAY INCLUDE:~~

13 ~~(I) A WORK PLAN FOR THE PROPOSED RESPONSE ACTION PLAN TO~~
14 ~~BE PERFORMED; OR~~

15 ~~(II) EVALUATIONS;~~

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

19 (IV) A DEMONSTRATION THAT THE PROPOSED RESPONSE ACTION
20 PLAN WILL MEET CLEANUP STANDARDS IN § 7-506 OF THIS SUBTITLE. PLAN:

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

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

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

27 (V) A CERTIFIED WRITTEN STATEMENT THAT THE PROPERTY
28 MEETS ALL APPLICABLE COUNTY OR MUNICIPAL ZONING REQUIREMENTS; AND

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

31 ~~(4) (3) AN APPLICANT MAY SHALL~~ SELECT ONE OR MORE OF THE
32 CRITERIA IN ~~§ 7-506(A)~~ § 7-507 OF THIS SUBTITLE WHEN PROPOSING A RESPONSE
33 ACTION PLAN.

34 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, AN
35 APPLICANT MAY WITHDRAW AN APPLICATION OR RESPONSE ACTION PLAN AT ANY
36 TIME UNDER THE ~~VOLUNTARY CLEANUP~~ PROGRAM AND WILL MAY NOT BE
37 OBLIGATED TO COMPLETE ~~A PROPOSED~~ AN APPLICATION OR A RESPONSE ACTION
38 PLAN.

13

1 (2) IF AN APPLICANT WITHDRAWS AN APPLICATION, ~~THE DEPARTMENT~~
2 ~~SHALL RETURN ALL DOCUMENTS AND COPIES OF DOCUMENTS SUBMITTED TO THE~~
3 ~~APPLICANT OR A RESPONSE ACTION PLAN, THE APPLICANT SHALL:~~

4 (I) PROMPTLY NOTIFY THE DEPARTMENT IN WRITING; AND

5 (II) FORFEIT ANY APPLICATION AND OVERSIGHT FEES.

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

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

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

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

16 (5) IF AN APPLICATION OR A RESPONSE ACTION PLAN IS WITHDRAWN,
17 ANY LETTERS ISSUED TO AN APPLICANT UNDER THIS SUBTITLE SHALL BE VOID
18 EXCEPT FOR AN ASSURANCE LETTER ISSUED UNDER § 7-509(2), (3), OR (4) OF THIS
19 SUBTITLE.

20 ~~7-506, 7-507.~~

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

27 (1) NUMERIC RISK-BASED STANDARDS;

28 ~~(2) PRESUMPTIVE AND GENERIC REMEDIES;~~

29 ~~(3) (2) STANDARDS BASED ON SITE-SPECIFIC RISK ASSESSMENTS;~~

30 ~~(4) (3) BACKGROUND LEVELS; OR~~

31 ~~(5) THE STANDARDS OF THE STATE HAZARDOUS SUBSTANCE RESPONSE~~
32 ~~PLAN; OR~~

33 ~~(6) A COMBINATION OF ONE OR MORE OF THESE CRITERIA.~~

34 (4) ANY RELEVANT MARYLAND STATE STANDARDS.

35 (B) ~~(4) THE DEPARTMENT SHALL ADOPT REGULATIONS DEVELOPING~~
36 ~~STANDARDS FOR THE CRITERIA IN SUBSECTION (A) NUMERIC RISK-BASED~~
37 ~~STANDARDS BY REGULATION BASED ON RESIDENTIAL AND INDUSTRIAL USES~~
38 ~~UNDER SUBSECTION (A)(1) OF THIS SECTION, BASED ON~~

14

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

4 ~~(1)~~ (1) PROTECTION OF THE PUBLIC HEALTH AND THE
5 ENVIRONMENT;

6 ~~(2)~~ (2) COST EFFECTIVE RISK REDUCTION; AND EFFECTIVENESS;

7 ~~(3)~~ (3) TECHNICAL PRACTICABILITY; AND

8 (4) THE PROPOSED USE OF THE PROPERTY.

9 ~~(2) THE DEPARTMENT SHALL DEVELOP STANDARDS FOR REVIEW~~
10 ~~NUMERIC RISK-BASED STANDARDS, PRESUMPTIVE AND GENERIC REMEDIES,~~
11 ~~SITE-SPECIFIC RISK ASSESSMENTS, AND BACKGROUND LEVELS BASED ON~~
12 ~~RESIDENTIAL, INDUSTRIAL, OR COMMERCIAL USES FOR ELIGIBLE PROPERTY~~
13 ~~EVERY 2 YEARS AND MAY REVISE THE STANDARDS.~~

14 ~~(3) THE DEPARTMENT SHALL DEVELOP STANDARDS FOR~~
15 ~~COMBINATIONS OF THE CRITERIA IN SUBSECTION (A) OF THIS SECTION.~~

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

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

23 7-508.

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

29 (1) THE RESPONSE ACTION PLAN HAS BEEN APPROVED;

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

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

33 (B) PRIOR TO NOTIFYING AN APPLICANT THAT MODIFICATIONS ARE
34 NECESSARY UNDER SUBSECTION (A)(3) OF THIS SECTION, THE DEPARTMENT SHALL
35 CONSIDER COST EFFECTIVENESS AND TECHNICAL PRACTICABILITY.

15

1 ~~7-507. 7-509.~~

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

5 (1) WORK PLANS, ENVIRONMENTAL SITE ~~ASSESSMENTS~~ EVALUATIONS,
6 OR OTHER TECHNICAL DOCUMENTS ARE ADEQUATE FOR THE PURPOSES FOR
7 WHICH THEY ARE ~~DESIGNED~~ SUBMITTED;

8 (2) CONTAMINATION AT AN ELIGIBLE PROPERTY ~~IS NOT~~ WAS CAUSED
9 BY ~~ACTIVITIES ON~~ A RELEASE FROM A PROPERTY OTHER THAN THE ELIGIBLE
10 PROPERTY; ~~OR~~

11 ~~(3) AN APPLICANT OR A RESPONSIBLE PERSON DID NOT CAUSE~~

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

14 (4) THE ELIGIBLE PROPERTY IS NOT CONTAMINATED.

15 ~~7-508. 7-510.~~

16 (A) ~~ON~~ AFTER APPROVAL BY THE DEPARTMENT OF A PROPOSED RESPONSE
17 ACTION PLAN, THE DEPARTMENT SHALL ISSUE A NO FURTHER ACTION LETTER
18 WHICH CONTAINS A LIABILITY RELEASE WITHIN 60 DAYS STATING THAT NO
19 FURTHER ACTION WILL BE REQUIRED TO ACCOMPLISH THE PURPOSES OF THE
20 PROPOSED RESPONSE ACTION PLAN OTHER THAN THOSE ACTIONS CONTEMPLATED
21 IN THE PROPOSED ACTION PLAN 30 DAYS, OR WITHIN 30 DAYS AFTER THE SIGNING
22 OF A WRITTEN AGREEMENT UNDER § 7-506(B)(3)(D) OF THIS SUBTITLE.

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

28 ~~(B)~~

29 7-511.

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

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

16

1 ~~(1) AN APPLICANT WHO HAS DEMONSTRATED THAT CONTAMINATION~~
2 ~~AT A PROPERTY MEETS THE CLEANUP STANDARDS SET FORTH IN § 7-506 OF THIS~~
3 ~~SUBTITLE; OR~~

4 ~~(2) A PROSPECTIVE OWNER OR OPERATOR WHOSE ACTIONS DID NOT~~
5 ~~CAUSE CONTAMINATION AT A PROPERTY IF:~~

6 ~~(I) THERE IS NO IMMINENT AND SUBSTANTIAL THREAT TO~~
7 ~~HEALTH OR THE ENVIRONMENT AT THE PROPERTY; AND~~

8 ~~(II) THE APPLICANT PROVIDES THE DEPARTMENT WITH A LIST OF~~
9 ~~ANY PERSON:~~

10 ~~1. KNOWN OR SUSPECTED TO HAVE CAUSED~~
11 ~~CONTAMINATION OF THE PROPERTY; OR~~

12 ~~2. WHO WAS A PRIOR OWNER OF THE PROPERTY.~~

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

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

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

24 7-512.

25 ~~(C)~~ (A) EXCEPT AS PROVIDED IN SUBSECTION (D) SUBSECTIONS (B) AND (C)
26 OF THIS SECTION, AN APPLICANT WHO RECEIVES A NO FURTHER ACTION LIABILITY
27 RELEASE OR A NO ACTION LIABILITY RELEASE IS NOT LIABLE TO THE DEPARTMENT
28 OR ANY OTHER PERSON FOR ANY CLEANUP COSTS OR OTHER EXPENSES RELATED
29 TO THE CONTAMINATION ADDRESSED IN THE NO FURTHER ACTION LETTER OR THE
30 NO ACTION LETTER. APPLICANT IS NOT LIABLE TO THE DEPARTMENT OR ANY
31 OTHER PERSON FOR ANY CLEANUP COSTS OF THE CONTAMINATION AT THE
32 ELIGIBLE PROPERTY ADDRESSED IN THE RESPONSE ACTION PLAN IF THE
33 APPLICANT:

34 (1) RECEIVES A NO FURTHER ACTION LETTER OR A NO ACTION
35 LETTER; AND

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

37 ~~(D) A NO FURTHER ACTION LIABILITY RELEASE OR A NO ACTION LIABILITY~~
38 ~~RELEASE DOES NOT:~~

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

4 ~~(2) REMAIN IN EFFECT IF A NO FURTHER ACTION LIABILITY RELEASE~~
5 ~~OR A NO ACTION LIABILITY RELEASE IS OBTAINED THROUGH FRAUD OR~~
6 ~~MISREPRESENTATION;~~

7 ~~(3) PREVENT THE DEPARTMENT FROM REQUIRING A RESPONSIBLE~~
8 ~~PERSON TO TAKE FURTHER ACTION IF THE ELIGIBLE PROPERTY FAILS TO MEET~~
9 ~~THE APPLICABLE CLEANUP STANDARDS AS SET FORTH IN THE PROPOSED RESPONSE~~
10 ~~ACTION PLAN APPROVED BY THE DEPARTMENT; OR~~

11 ~~(4) IF THE NO FURTHER ACTION LIABILITY RELEASE OR THE NO~~
12 ~~ACTION LIABILITY RELEASE IS CONDITIONED ON THE USE OF THE PROPERTY FOR~~
13 ~~INDUSTRIAL OR COMMERCIAL PURPOSES OR THE AVOIDANCE OF RESIDENTIAL~~
14 ~~USES, PREVENT THE DEPARTMENT FROM TAKING ACTION AGAINST ANY~~
15 ~~RESPONSIBLE PERSON WHO DOES NOT COMPLY WITH THE CONDITIONS.~~

16 ~~(E) A NO FURTHER ACTION LIABILITY RELEASE OR A NO ACTION LIABILITY~~
17 ~~RELEASE DOES NOT AFFECT THE AUTHORITY OF THE DEPARTMENT OR ANY OTHER~~
18 ~~PERSON TO BRING AN ENFORCEMENT ACTION CONCERNING NEW CONTAMINATION~~
19 ~~AT AN ELIGIBLE SITE AFTER A NO FURTHER ACTION LIABILITY RELEASE OR A NO~~
20 ~~ACTION LIABILITY RELEASE HAS BEEN ISSUED BY THE DEPARTMENT.~~

21 (B) A NO FURTHER ACTION LETTER DOES NOT:

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

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

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

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

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

38 (C) A NO ACTION LETTER DOES NOT:

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

18

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

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

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

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

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

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

22 ~~(F) EXCEPT FOR A NO ACTION LIABILITY RELEASE ISSUED UNDER~~
23 ~~SUBSECTION (B)(2) OF THIS SECTION,~~

24 ~~(D) A NO FURTHER ACTION LIABILITY RELEASE LETTER OR A NO ACTION~~
25 ~~LIABILITY RELEASE LETTER MAY BE TRANSFERRED TO ANY PERSON WHOSE~~
26 ~~ACTIONS DID NOT CAUSE THE CONTAMINATION.~~

27 ~~(G) (E) IF A NO FURTHER ACTION LIABILITY RELEASE LETTER OR A NO~~
28 ~~ACTION LIABILITY RELEASE LETTER IS CONDITIONED ON THE PERMISSIBLE USE OF~~
29 ~~THE PROPERTY FOR INDUSTRIAL OR COMMERCIAL PURPOSES, THE LIABILITY~~
30 ~~RELEASE SHALL BE RECORDED IN THE LAND RECORDS. THE APPLICANT SHALL~~
31 ~~RECORD THE LETTER IN THE LAND RECORDS OF THE LOCAL JURISDICTION WITHIN~~
32 ~~30 DAYS AFTER RECEIVING THE LETTER.~~

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

38 ~~7-509. 7-513.~~

39 (A) THE DEPARTMENT SHALL IMPLEMENT DEVELOP AND USE
40 STANDARDIZED NOTICES OF ELIGIBILITY, LETTERS OF ASSURANCE ASSURANCE

19

1 ~~LETTERS, NO FURTHER ACTION LETTERS, AND NO ACTION LETTERS, AND WRITTEN~~
2 ~~AGREEMENTS.~~

3 (B) THE DEPARTMENT SHALL ~~ADOPT A MODEL PROTOCOL FOR~~
4 ~~ENVIRONMENTAL SITE ASSESSMENT~~ ESTABLISH CRITERIA FOR ENVIRONMENTAL
5 SITE EVALUATIONS TO ASSESS ELIGIBLE PROPERTIES.

6 ~~7-510: 7-514.~~

7 (A) ~~BEFORE THE DEPARTMENT ISSUES A LETTER OF ASSURANCE OR A~~
8 ~~LIABILITY RELEASE CONDITIONED ON THE USE OF THE PROPERTY FOR INDUSTRIAL~~
9 ~~OR COMMERCIAL PURPOSES, THE DEPARTMENT SHALL:~~

10 (1) ~~PROVIDE FOR PUBLIC NOTIFICATION IN THE SAME MANNER AS SET~~
11 ~~FORTH IN § 1-602 OF THIS ARTICLE; AND~~

12 (2) ~~NOTIFY THE LOCAL HEALTH DEPARTMENT~~ AFTER THE SUBMISSION
13 OF A COMPLETED PROPOSED RESPONSE ACTION PLAN, THE APPLICANT SHALL
14 PUBLISH A PROPOSED RESPONSE ACTION PLAN ONCE A WEEK FOR 2 CONSECUTIVE
15 WEEKS IN A DAILY OR WEEKLY NEWSPAPER OF GENERAL CIRCULATION IN THE
16 GEOGRAPHICAL AREA IN WHICH THE ELIGIBLE PROPERTY IS LOCATED.

17 (B) THE DEPARTMENT SHALL RECEIVE WRITTEN COMMENTS FROM THE
18 PUBLIC FOR ~~20~~ 30 DAYS AFTER ~~PUBLIC NOTIFICATION~~ PUBLICATION REQUIRED
19 UNDER THIS SECTION.

20 ~~7-511.~~

21 ~~DOCUMENTS SUBMITTED TO THE DEPARTMENT BY AN APPLICANT AS PART OF~~
22 ~~THE VOLUNTARY CLEANUP PROGRAM MAY NOT BE USED BY THE DEPARTMENT OR~~
23 ~~ANY OTHER PERSON IN ANY NONVOLUNTARY CLEANUP, COST RECOVERY, OR~~
24 ~~ENFORCEMENT ACTION.~~

25 ~~7-515.~~

26 (A) THE PROVISIONS OF §§ 7-256 THROUGH 7-268 OF THIS TITLE SHALL BE
27 USED AND SHALL APPLY TO ENFORCE VIOLATIONS OF:

28 (1) THIS SUBTITLE; OR

29 (2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE.

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

32 ~~7-512: 7-516.~~

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

35 (B) THE ENVIRONMENTAL LIAISON SHALL:

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

20

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

4 7-517.

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

8 (2) NOTWITHSTANDING § 7-201(X) OF THIS TITLE AND EXCEPT AS
9 PROVIDED IN SUBSECTION (B) OF THIS SECTION, A BANK, AN AFFILIATE OR
10 SUBSIDIARY OF A BANK, THE STATE, A COUNTY, OR A MUNICIPAL CORPORATION
11 MAY NOT BE DEEMED TO BE A RESPONSIBLE PERSON AS DEFINED UNDER SUBTITLE
12 2 OF THIS TITLE, AS THE RESULT OF AN ACTION TAKEN AFTER NOTIFICATION TO
13 THE DEPARTMENT:

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

19 (II) TO COMPLETE A RESPONSE ACTION PLAN.

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

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

28 7-518.

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

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

34 (C) THIS SUBTITLE DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS
35 AFFECTING, AN APPLICANT WHO IS NOT A RESPONSIBLE PERSON FROM SEEKING
36 COST RECOVERY AGAINST A RESPONSIBLE PERSON.

21

1 **Article 83A - Department of Business and Economic Development**

2 SUBTITLE 9. BROWNFIELDS REVITALIZATION PROGRAM.

3 3-901.

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

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

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

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

11 ~~(I) AN INDUSTRIAL OR COMMERCIAL PROPERTY THAT IS LISTED~~
12 ~~BY THE DEPARTMENT ON THE FINAL LIST OF SITES AS PROVIDED FOR IN § 3-903(A)~~
13 ~~OF THIS SUBTITLE; OR~~

14 ~~(II) PROPERTY THAT IS OTHERWISE SHOWN TO BE ELIGIBLE AS A~~
15 ~~BROWNFIELDS SITE.~~

16 (2) "BROWNFIELDS SITE" DOES NOT INCLUDE PROPERTY THAT IS:

17 ~~(I) ON THE NATIONAL PRIORITIES LIST AS PROVIDED IN § 105 OF~~
18 ~~THE FEDERAL ACT;~~

19 ~~(II) THE SUBJECT OF AN ENFORCEMENT ACTION FILED BY THE~~
20 ~~DEPARTMENT OF THE ENVIRONMENT UNDER TITLES 4 OR 7 OF THE ENVIRONMENT~~
21 ~~ARTICLE; OR~~

22 ~~(III) OWNED OR OPERATED BY A RESPONSIBLE PERSON THAT~~
23 ~~CAUSED CONTAMINATION ON THE PROPERTY.~~

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

26 3-902.

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

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

30 (1) PROVIDE FINANCIAL INCENTIVES FOR REDEVELOPMENT OF
31 ~~PROPERTIES WITHIN FINANCIALLY DISTRESSED URBAN AREAS~~ PREVIOUSLY USED
32 FOR COMMERCIAL OR INDUSTRIAL PURPOSES;

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

35 (3) PREVENT URBAN SPRAWL;

22

1 (4) ENCOURAGE ECONOMIC REVITALIZATION; ~~AND~~

2 (5) EXPAND EMPLOYMENT OPPORTUNITIES; AND

3 (6) PROVIDE FINANCIAL INCENTIVES FOR LISTED BROWNFIELDS SITES.

4 3-903.

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

8 (2) THE DEPARTMENT ~~SHALL~~ MAY SELECT, ~~IN CONJUNCTION WITH THE~~
9 ~~DEPARTMENT OF THE ENVIRONMENT,~~ BROWNFIELDS SITES BASED ON THE
10 LOCATION OF THE SITE IN:

11 (I) A FINANCIALLY DISTRESSED URBAN AREA; ~~OR~~

12 (II) A LOCALLY DESIGNATED GROWTH AREA; OR

13 (III) A RURAL AREA NOT ON PUBLIC WATER.

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

16 (I) THE FEASIBILITY OF REDEVELOPMENT;

17 (II) ~~THE FEASIBILITY OF ACHIEVING A CLEANUP STANDARD AS~~
18 ~~IDENTIFIED IN § 7-506 OF THE ENVIRONMENT ARTICLE;~~

19 ~~(III)~~ (III) THE PUBLIC BENEFIT PROVIDED TO THE COMMUNITY AND
20 THE STATE THROUGH THE REDEVELOPMENT OF THE PROPERTY;

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

23 ~~(V)~~ (IV) THE ABSENCE OF IDENTIFIABLE AND FINANCIALLY
24 SOLVENT RESPONSIBLE PERSONS; OR

25 ~~(VI)~~ (V) ANY OTHER FACTOR RELEVANT AND APPROPRIATE TO
26 ECONOMIC DEVELOPMENT, ~~CLEANUP, OR CONTAMINATION.~~

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

29 (1) RELEVANT STATE AND LOCAL OFFICIALS;

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

32 (3) REPRESENTATIVES OF STATE AND LOCAL ENVIRONMENTAL
33 ORGANIZATIONS;

34 (4) PUBLIC HEALTH EXPERTS; AND

35 (5) ANY OTHER PERSON THE DEPARTMENT CONSIDERS APPROPRIATE.

23

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

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

5 (3) THE FINAL LIST MAY NOT CONTAIN MORE THAN 125 SITES DURING A
6 12-MONTH PERIOD.

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

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

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

14 3-904.

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

18 **Article - Tax - Property**

19 9-109.

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

22 (B) "BROWNFIELDS SITE" HAS THE MEANING ~~SET FORTH STATED IN ARTICLE~~
23 83A, § 3-901(B) OF ARTICLE 83A THE CODE.

24 (C) "TAXING JURISDICTION" MEANS:

25 (1) THE STATE;

26 (2) A COUNTY OR BALTIMORE CITY; OR

27 (3) A MUNICIPAL CORPORATION; ~~OR~~

28 ~~(4) A SPECIAL TAXING DISTRICT.~~

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

33 (1) GRANT A PROPERTY TAX CREDIT AGAINST THE PROPERTY TAX
34 IMPOSED ON THE BROWNFIELDS SITE IN AN AMOUNT EQUAL TO ~~70%~~ 50% OF THE
35 PROPERTY TAX ATTRIBUTABLE TO THE INCREASE IN THE ASSESSMENT OF THE
36 BROWNFIELDS SITE , INCLUDING IMPROVEMENTS ADDED TO THE SITE WITHIN THE
37 5-YEAR PERIOD AS PROVIDED UNDER THIS SUBSECTION, OVER THE ASSESSMENT OF

24

1 THE BROWNFIELDS SITE, INCLUDING IMPROVEMENTS ADDED TO THE SITE WITHIN
2 THE 5-YEAR PERIOD AS PROVIDED UNDER THIS SUBSECTION, BEFORE THE
3 VOLUNTARY CLEANUP; AND

4 (2) CONTRIBUTE TO THE VOLUNTARY CLEANUP FUND ESTABLISHED
5 UNDER § 7-502 §7-503 OF THE ENVIRONMENT ARTICLE 30% OF THE PROPERTY TAX
6 COLLECTED THAT IS ATTRIBUTABLE TO THE INCREASE IN THE ASSESSMENT OF THE
7 BROWNFIELDS SITE, INCLUDING IMPROVEMENTS ADDED TO THE SITE WITHIN THE
8 5-YEAR PERIOD AS PROVIDED UNDER THIS SUBSECTION, OVER THE ASSESSMENT OF
9 THE BROWNFIELDS SITE, INCLUDING IMPROVEMENTS ADDED TO THE SITE WITHIN
10 THE 5-YEAR PERIOD AS PROVIDED UNDER THIS SUBSECTION, BEFORE THE
11 VOLUNTARY CLEANUP.

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

17 (F) (1) A CREDIT UNDER THIS SECTION MAY NOT BE CALCULATED ON AN
18 INCREASE IN ASSESSMENT DUE TO THE TERMINATION OF A USE VALUE UNDER §§
19 8-209 THROUGH 8-217 OR §§ 8-220 THROUGH 8-225 OF THIS ARTICLE.

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of the
28 Environment, on or before July 1, 2000, shall report to the Governor and, subject to §
29 2-1312 of the State Government Article, to the General Assembly on the status of the
30 Voluntary Cleanup Program established under this Act.

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

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

39 SECTION 2- 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
40 October July 1, 1996.

