
By: Senators Frosh, Sfikas, Young, Stone, Van Hollen, Collins, Pinsky, Dorman, Teitelbaum, Kelley, Lawlah, Green, Roesser, Hollinger, Forehand, Currie, Kasemeyer, McFadden, Ruben, Madden, Dyson, and Astle

Introduced and read first time: January 22, 1996

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Brownfields Revitalization and Voluntary Remediation Programs**

3 FOR the purpose of establishing a Brownfields Revitalization Program and Voluntary
4 Remediation Program in the Department of the Environment; establishing certain
5 requirements for participation in each program, including the payment of certain
6 fees; establishing certain grounds for the rejection of an application; providing for
7 the use or return of certain fees; requiring participants in each program to develop
8 certain action plans that include certain information; establishing criteria for the
9 approval of certain cleanup standards; requiring the Department to meet certain
10 deadlines for receipt and approval of certain applications and plans; providing for
11 certain public participation in the approval or rejection of certain plans; establishing
12 requirements for certain remediation agreements under certain circumstances;
13 authorizing the Department to withdraw approval of certain action plans under
14 certain circumstances; requiring the Department to issue a certain letter that
15 certifies that a certain action is complete under certain circumstances; prohibiting
16 the Department from bringing certain enforcement actions under certain
17 circumstances; establishing certain criminal penalties for certain acts of fraud or
18 misrepresentation; providing for the recovery and reimbursement of certain costs
19 for certain expenses incurred by the Department or certain persons under certain
20 circumstances; requiring the Department to adopt certain regulations; requiring the
21 Department, in conjunction with the Department of Business and Economic
22 Development, to publish a certain list of certain sites that qualify for certain actions
23 under the Brownfields Revitalization Program; requiring the Departments to
24 develop a certain program of financial incentives to participants in the Brownfields
25 Revitalization Program; authorizing certain local governing bodies to grant a certain
26 property tax credit on certain property on which a Brownfields Response Action
27 Plan has been implemented and completed; defining certain terms; providing for a
28 certain construction of this Act; and generally relating to the establishment of a
29 Brownfields Revitalization Program and Voluntary Remediation Program.

30 BY repealing and reenacting, with amendments,

31 Article - Environment

32 Section 7-221

33 Annotated Code of Maryland

2

1 (1993 Replacement Volume and 1995 Supplement)

2 BY adding to

3 Article - Environment

4 Section 7-223.1 and 7-223.2

5 Annotated Code of Maryland

6 (1993 Replacement Volume and 1995 Supplement)

7 BY adding to

8 Article - Tax - Property

9 Section 9-227

10 Annotated Code of Maryland

11 (1994 Replacement Volume and 1995 Supplement)

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

14 **Article - Environment**

15 7-221.

16 (a) All expenditures from the State Hazardous Substance Control Fund made by
17 the Department under § 7-220(b) of this subtitle in response to a release or a threatened
18 release of a hazardous substance at a particular site shall be reimbursed to the
19 Department for the State Hazardous Substance Control Fund by the responsible person
20 for the release or the threatened release.

21 (b) (1) In addition to any other legal action authorized by this subtitle, the
22 Attorney General may bring an action to recover costs and interest from any responsible
23 person who fails to make a reimbursement as required under subsection (a) of this
24 section.

25 (2) (i) In an action under paragraph (1) of this subsection to recover
26 costs, the State shall make a good faith effort to identify and seek recovery against all
27 responsible persons.

28 (ii) The State shall seek recovery on an apportionment basis in
29 accordance with a person's contribution to the situation or problem, when there is a
30 reasonable basis for determining the contribution of a responsible person.

31 (iii) Reimbursement in any other case shall not be apportioned.

32 (c) The Department may recover costs for the Fund resulting from releases or
33 threatened releases of hazardous substances whether or not the hazardous substance was
34 placed at the site, released, or threatened to be released before July 1, 1985.

35 (d) Except as otherwise provided in subsection (b) of this section, a person who is
36 liable for a release or threatened release of a hazardous substance under this subtitle is
37 subject to the Uniform Contribution Among Tort-Feasors Act under Article 50, §§ 16
38 through 24 of the Code, including a right of contribution, as if that person had caused an
39 injury in tort.

3

1 (e) A responsible person against whom a legal action is brought under subsection
2 (b) of this section for a release or threatened release of a hazardous substance may move
3 to join any other responsible person under the Maryland Rules of Civil Procedure.

4 (f) Upon request by the Department, and after reasonable notice, a person shall
5 provide to the Department any existing information or documents relating to:

6 (1) The identification, nature, and quantity of any hazardous substance
7 which is or has been generated, treated, stored, or disposed of at a site or facility, or
8 transported to a site or facility; and

9 (2) The nature or extent of a release of a hazardous substance at or from a
10 site or facility.

11 (G) (1) IF THE DEPARTMENT IDENTIFIES A RESPONSIBLE PERSON FOR A
12 RELEASE OR THREATENED RELEASE AT A SITE WHERE A BROWNFIELDS RESPONSE
13 ACTION PLAN OR VOLUNTARY RESPONSE ACTION PLAN HAS BEEN IMPLEMENTED
14 AND COMPLETED IN ACCORDANCE WITH § 7-223.1 OR § 7-223.2 OF THIS SUBTITLE, THE
15 DEPARTMENT MAY BRING A LEGAL ACTION AGAINST THE RESPONSIBLE PERSON TO
16 RECOVER THE COSTS INCURRED IN THE PERFORMANCE OF THE REMOVAL OR
17 REMEDIAL ACTION.

18 (2) THE COSTS RECOVERED BY THE DEPARTMENT MAY COVER THE
19 EXPENSES INCURRED BY THE DEPARTMENT OR BY AN ELIGIBLE PERSON FOR THE
20 REMOVAL OR REMEDIAL ACTION, INCLUDING:

21 (I) INVESTIGATIONS AND ASSESSMENTS THAT WERE PERFORMED TO
22 PREPARE THE BROWNFIELDS RESPONSE ACTION PLAN OR VOLUNTARY RESPONSE
23 ACTION PLAN AS PROVIDED IN §§ 7-223.1(F) AND 7-223.2(E) OF THIS SUBTITLE;

24 (II) IMPLEMENTATION OF THE ACTION PLAN INCLUDING MONITORING
25 AND OPERATION AND MAINTENANCE OF THE SITE; AND

26 (III) OVERSIGHT OF THE PREPARATION AND IMPLEMENTATION OF THE
27 ACTION PLAN.

28 (3) THE DEPARTMENT SHALL USE THE COSTS RECOVERED UNDER THIS
29 SUBSECTION TO REIMBURSE ELIGIBLE PERSONS FOR THE COSTS THEY INCURRED IN
30 IMPLEMENTING A BROWNFIELDS RESPONSE ACTION PLAN OR VOLUNTARY
31 RESPONSE ACTION PLAN PROVIDED THAT THE DEPARTMENT FIRST RECOVERS ITS
32 OWN COSTS.

33 7-223.1.

34 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
35 INDICATED.

36 (2) "ELIGIBLE PERSON" MEANS A PERSON WHO IS NOT A RESPONSIBLE
37 PERSON AND WHO IS:

38 (I) A CURRENT OWNER OF AN ELIGIBLE SITE;

39 (II) A LENDER ASSOCIATED WITH AN ELIGIBLE SITE;

4

1 (III) A DEVELOPER ASSOCIATED WITH AN ELIGIBLE SITE; OR

2 (IV) A PROSPECTIVE PURCHASER OF AN ELIGIBLE SITE.

3 (3) (I) "ELIGIBLE SITE" MEANS A SITE AT WHICH THERE IS A RELEASE
4 OR THREATENED RELEASE OF A CONTROLLED HAZARDOUS SUBSTANCE.

5 (II) "ELIGIBLE SITE" DOES NOT INCLUDE A SITE THAT IS:

6 1. ON THE NATIONAL PRIORITIES LIST AS PROVIDED IN § 105
7 OF THE FEDERAL ACT;

8 2. PART OF AN OPERATING FACILITY THAT IS SUBJECT TO
9 DEPARTMENT REGULATIONS; OR

10 3. SUBJECT TO AN ENFORCEMENT ACTION BY THE
11 DEPARTMENT UNDER THIS SUBTITLE.

12 (4) "LISTED SITE" MEANS AN ELIGIBLE SITE THAT IS LISTED BY THE
13 DEPARTMENT ON THE FINAL LIST OF BROWNFIELDS SITES AS PROVIDED IN
14 SUBSECTION (C) OF THIS SECTION.

15 (B) (1) THERE IS A BROWNFIELDS REVITALIZATION PROGRAM
16 ADMINISTERED BY THE DEPARTMENT.

17 (2) THE PURPOSE OF THE BROWNFIELDS REVITALIZATION PROGRAM IS
18 TO:

19 (I) PROVIDE INCENTIVES FOR THE REDEVELOPMENT OF URBAN
20 AREAS THROUGHOUT THE STATE;

21 (II) PREVENT URBAN SPRAWL;

22 (III) ENCOURAGE ECONOMIC REVITALIZATION; AND

23 (IV) EXPAND EMPLOYMENT OPPORTUNITIES.

24 (3) UNDER THE BROWNFIELDS REVITALIZATION PROGRAM, AN
25 ELIGIBLE PERSON THAT IMPLEMENTS AND COMPLETES A BROWNFIELDS RESPONSE
26 ACTION PLAN IN ACCORDANCE WITH THIS SECTION:

27 (I) IS ELIGIBLE FOR THE FINANCIAL INCENTIVES PROVIDED IN
28 SUBSECTION (O) OF THIS SECTION; AND

29 (II) SHALL RECEIVE THE ASSURANCES PROVIDED IN SUBSECTION
30 (M) OF THIS SECTION.

31 (C) (1) BY OCTOBER 1, 1997, THE DEPARTMENT, IN CONJUNCTION WITH THE
32 DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, SHALL PUBLISH A LIST
33 OF NO MORE THAN 100 ELIGIBLE SITES THAT QUALIFY FOR REMOVAL OR REMEDIAL
34 ACTION UNDER THIS SECTION.

35 (2) THE DEPARTMENTS SHALL SELECT ELIGIBLE SITES BASED ON THE
36 FOLLOWING CRITERIA:

5

1 (I) THE LOCATION OF THE SITE IN AN INTENSELY DEVELOPED,
2 URBAN AREA;

3 (II) POTENTIAL INTEREST IN REDEVELOPING THE SITE
4 FOLLOWING COMPLETION OF A REMOVAL OR REMEDIAL ACTION UNDER THIS
5 SECTION;

6 (III) POTENTIAL OF CREATION OF NEW JOBS FROM A PROPOSED
7 BUSINESS ENTITY;

8 (IV) THE BENEFITS OF REDEVELOPMENT TO THE COMMUNITY
9 ADJACENT TO THE SITE AND TO THE STATE AS A WHOLE;

10 (V) THE EXTENT OF RELEASES OR THREATENED RELEASES AT
11 THE SITE AND THE DEGREE TO WHICH A BROWNFIELDS RESPONSE ACTION PLAN
12 CAN BE IMPLEMENTED TO PROTECT THE PUBLIC HEALTH AND WELFARE AND THE
13 ENVIRONMENT WITHIN A REASONABLE TIME FRAME AND AT A REASONABLE COST;
14 AND

15 (VI) THE ABSENCE OF IDENTIFIABLE AND SOLVENT RESPONSIBLE
16 PERSONS.

17 (3) DURING THE COURSE OF EVALUATING ELIGIBLE SITES, THE
18 DEPARTMENTS SHALL CONSULT WITH:

19 (I) RELEVANT STATE AND LOCAL OFFICIALS;

20 (II) REPRESENTATIVES OF LENDING, REAL ESTATE, INSURANCE,
21 AND OTHER INSTITUTIONS INTERESTED IN REDEVELOPING THE SITES;

22 (III) CONCERNED CITIZENS;

23 (IV) REPRESENTATIVES OF STATE AND LOCAL ENVIRONMENTAL
24 ORGANIZATIONS;

25 (V) PUBLIC HEALTH EXPERTS; AND

26 (VI) ANY OTHER AFFECTED PARTY THE DEPARTMENTS DEEM
27 APPROPRIATE.

28 (4) PUBLICATION OF THE FINAL LIST OF BROWNFIELDS SITES SHALL
29 INCLUDE A BRIEF EXPLANATION OF HOW THE CRITERIA LISTED IN PARAGRAPH (2)
30 OF THIS SUBSECTION WERE APPLIED ON A SITE-SPECIFIC BASIS.

31 (5) THE FINAL LIST OF BROWNFIELDS SITES IS NOT SUBJECT TO
32 JUDICIAL REVIEW UNDER THIS ARTICLE OR ANY OTHER PROVISION OF MARYLAND
33 LAW.

34 (6) AT LEAST ANNUALLY, THE DEPARTMENTS SHALL UPDATE THE
35 FINAL LIST BY ADDING OR DELETING ELIGIBLE SITES AS APPROPRIATE, PROVIDED
36 THAT THE FINAL LIST MAY NOT CONTAIN MORE THAN 125 SITES DURING ANY
37 12-MONTH PERIOD.

6

1 (D) (1) TO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION
2 PROGRAM, AN ELIGIBLE PERSON SHALL:

3 (I) SUBMIT TO THE DEPARTMENT AN APPLICATION AS PROVIDED
4 IN PARAGRAPH (2) OF THIS SUBSECTION ON THE FORM THAT THE DEPARTMENT
5 REQUIRES; AND

6 (II) PAY TO THE DEPARTMENT AN APPLICATION FEE OF \$10,000.

7 (2) THE APPLICATION SHALL INCLUDE:

8 (I) INFORMATION DEMONSTRATING THAT THE APPLICANT IS AN
9 ELIGIBLE PERSON;

10 (II) INFORMATION DEMONSTRATING THAT THE APPLICATION
11 PERTAINS TO A LISTED SITE;

12 (III) AN ENVIRONMENTAL ASSESSMENT THAT INCLUDES
13 INFORMATION CONCERNING THE NATURE AND EXTENT OF KNOWN
14 CONTAMINATION AT THE SITE; AND

15 (IV) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

16 (3) WITHIN 30 DAYS OF RECEIVING A COMPLETE APPLICATION AND THE
17 APPLICATION FEE, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING
18 WHETHER THE APPLICANT IS ACCEPTED.

19 (4) THE DEPARTMENT MAY REJECT AN APPLICATION IF:

20 (I) THE APPLICANT DOES NOT DEMONSTRATE TO THE
21 SATISFACTION OF THE DEPARTMENT THAT THE APPLICANT IS AN ELIGIBLE PERSON;

22 (II) THE APPLICATION DOES NOT PERTAIN TO A LISTED SITE;

23 (III) THE DEPARTMENT CONCLUDES THAT THE RESPONSE ACTION
24 AT THE SITE COVERED BY THE APPLICATION SHOULD BE IMPLEMENTED UNDER
25 OTHER REGULATORY AUTHORITIES; OR

26 (IV) THE APPLICANT DOES NOT DEMONSTRATE TO THE
27 SATISFACTION OF THE DEPARTMENT THAT APPROVAL OF THE APPLICATION
28 WOULD BE IN THE PUBLIC INTEREST.

29 (5) A FINAL DECISION TO REJECT OR ACCEPT AN APPLICATION IS NOT
30 SUBJECT TO JUDICIAL REVIEW UNDER THIS ARTICLE OR ANY OTHER PROVISION OF
31 LAW.

32 (6) IF THE APPLICATION IS NOT ACCEPTED, THE DEPARTMENT SHALL
33 RETURN TO THE APPLICANT THE APPLICATION FEE.

34 (E) THE DEPARTMENT SHALL:

35 (1) USE THE APPLICATION FEE TO COVER THE COSTS OF
36 ADMINISTRATION AND OVERSIGHT OF THE BROWNFIELDS REVITALIZATION
37 PROGRAM.

7

1 (2) AFTER COMPLETION OF A BROWNFIELDS RESPONSE ACTION PLAN
2 AS PROVIDED IN SUBSECTION (M) OF THIS SECTION:

3 (I) REIMBURSE TO THE APPLICANT THAT PORTION OF THE
4 APPLICATION FEE THAT WAS NOT SPENT BY THE DEPARTMENT IN THE
5 ADMINISTRATION AND OVERSIGHT OF THE REMOVAL OR REMEDIAL ACTION; OR

6 (II) REQUIRE THE APPLICANT TO PAY TO THE DEPARTMENT THE
7 ADDITIONAL AMOUNT SPENT BY THE DEPARTMENT IN THE ADMINISTRATION AND
8 OVERSIGHT OF THE REMOVAL OR REMEDIAL ACTION.

9 (F) (1) AFTER AN APPLICANT RECEIVES NOTICE OF ACCEPTANCE OF THE
10 APPLICATION, THE PERSON SHALL SUBMIT A PROPOSED BROWNFIELDS RESPONSE
11 ACTION PLAN TO THE DEPARTMENT.

12 (2) THE PROPOSED BROWNFIELDS RESPONSE ACTION PLAN SHALL
13 INCLUDE:

14 (I) DOCUMENTATION THAT DESCRIBES THE METHODS AND
15 RESULTS OF AN INVESTIGATION OF THE RELEASES AT THE SITE;

16 (II) THE REMOVAL OR REMEDIAL ACTION TO BE PERFORMED
17 INCLUDING THE LONG-TERM MONITORING AND OPERATION AND MAINTENANCE
18 OF THE SITE;

19 (III) A DEMONSTRATION THAT THE ACTION, ONCE COMPLETED,
20 WILL PROTECT THE PUBLIC HEALTH AND WELFARE AND THE ENVIRONMENT; AND

21 (IV) ANY OTHER INFORMATION THE DEPARTMENT REQUIRES.

22 (3) REMOVAL OR REMEDIAL ACTIONS REQUIRED UNDER THIS SECTION
23 SHALL:

24 (I) BE CONSISTENT WITH THE STATE HAZARDOUS SUBSTANCE
25 RESPONSE PLAN; AND

26 (II) MEET THE SAME STANDARDS FOR THE PROTECTION OF
27 PUBLIC HEALTH AND WELFARE AND THE ENVIRONMENT THAT APPLY TO REMOVAL
28 OR REMEDIAL ACTIONS TAKEN OR REQUESTED UNDER THIS PART OF THIS
29 SUBTITLE.

30 (G) (1) CLEANUP STANDARDS SHALL BE BASED ON:

31 (I) FEDERAL OR STATE MAXIMUM CONTAMINANT LEVEL GOALS
32 (MCLGS) AND MAXIMUM CONTAMINANT LEVELS (MCLS);

33 (II) FEDERAL SOIL STANDARDS AND WATER QUALITY CRITERIA;

34 (III) RISK EVALUATIONS BASED ON SITE-SPECIFIC INFORMATION
35 AND CURRENT SCIENTIFIC INFORMATION; AND

36 (IV) ANY OTHER FEDERAL OR STATE STANDARDS THAT MAY BE
37 APPROPRIATE AND RELEVANT.

8

1 (2) WHEN APPROVING PROPOSED CLEANUP STANDARDS, THE
2 DEPARTMENT MAY:

3 (I) CONSIDER THE FUTURE INTENDED USE OF A PARTICULAR
4 SITE; AND

5 (II) APPROVE CLEANUP STANDARDS BASED ON WHETHER A SITE
6 IS:

7 1. LOCATED IN AN INDUSTRIAL AREA AND USED FOR
8 INDUSTRIAL PURPOSES;

9 2. LOCATED IN A RESIDENTIAL AREA AND USED FOR
10 INDUSTRIAL PURPOSES; OR

11 3. LOCATED IN A RESIDENTIAL AREA AND USED FOR
12 RESIDENTIAL OR OTHER PURPOSES THAT REQUIRE UNLIMITED PUBLIC ACCESS.

13 (3) THE DEPARTMENT SHALL ENSURE THAT CLEANUP STANDARDS
14 PROVIDED IN A BROWNFIELDS RESPONSE ACTION PLAN THAT IS APPROVED UNDER
15 THIS SECTION PROTECT THE PUBLIC HEALTH AND WELFARE AND THE
16 ENVIRONMENT.

17 (H) (1) WITHIN 30 DAYS AFTER RECEIVING A COMPLETE PROPOSED
18 BROWNFIELDS RESPONSE ACTION PLAN, THE DEPARTMENT SHALL:

19 (I) PUBLISH NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION
20 WITHIN THE COUNTY WHERE THE SITE IS LOCATED; AND

21 (II) TO THE EXTENT PRACTICABLE, MAIL NOTICE TO OWNERS OF
22 PROPERTY ADJACENT TO THE SITE.

23 (2) THE NOTICE SHALL:

24 (I) DESCRIBE THE NATURE AND EXTENT OF THE PROPOSED
25 REMOVAL OR REMEDIAL ACTION; AND

26 (II) ALLOW 30 DAYS FOR PUBLIC COMMENT.

27 (3) THE DEPARTMENT:

28 (I) MAY HOLD A PUBLIC HEARING ON THE PROPOSED
29 BROWNFIELDS RESPONSE ACTION PLAN AT ITS DISCRETION; AND

30 (II) SHALL HOLD A PUBLIC HEARING ON THE PROPOSED
31 BROWNFIELDS RESPONSE ACTION PLAN WHEN A WRITTEN REQUEST FOR A PUBLIC
32 HEARING IS MADE WITHIN 20 DAYS AFTER PUBLICATION OF THE NOTICE.

33 (I) (1) TO THE MAXIMUM EXTENT PRACTICABLE, WITHIN 60 DAYS AFTER
34 THE PUBLIC PARTICIPATION PERIOD PROVIDED IN SUBSECTION (H) OF THIS
35 SECTION HAS ENDED, THE DEPARTMENT SHALL NOTIFY THE PERSON OF ITS
36 DECISION ON THE DISPOSITION OF THE PROPOSED BROWNFIELDS RESPONSE
37 ACTION PLAN.

9

1 (2) TAKING INTO CONSIDERATION ALL WRITTEN COMMENTS AND
2 PUBLIC TESTIMONY, THE DEPARTMENT SHALL:

3 (I) APPROVE THE PROPOSED BROWNFIELDS RESPONSE ACTION
4 PLAN;

5 (II) MODIFY AND APPROVE THE PROPOSED BROWNFIELDS
6 RESPONSE ACTION PLAN; OR

7 (III) REJECT THE PROPOSED BROWNFIELDS RESPONSE ACTION
8 PLAN.

9 (3) THE DEPARTMENT MAY NOT APPROVE A PROPOSED BROWNFIELDS
10 RESPONSE ACTION PLAN UNLESS THE DEPARTMENT DETERMINES THAT THE
11 NATURE AND EXTENT OF THE RELEASES HAVE BEEN ADEQUATELY IDENTIFIED
12 AND EVALUATED.

13 (J) (1) WHEN THE PROPOSED BROWNFIELDS RESPONSE ACTION PLAN IS
14 APPROVED, THE DEPARTMENT SHALL ENTER INTO A VOLUNTARY REMEDIATION
15 AGREEMENT WITH THE PERSON WHO INTENDS TO IMPLEMENT THE BROWNFIELDS
16 RESPONSE ACTION PLAN.

17 (2) THE VOLUNTARY REMEDIATION AGREEMENT, AT A MINIMUM,
18 SHALL:

19 (I) OUTLINE THE STEPS TO BE TAKEN IN THE REMOVAL,
20 REMEDIATION, MONITORING, OPERATION, AND MAINTENANCE OF THE SITE; AND

21 (II) STATE THE CLEANUP STANDARDS THAT SHALL BE ACHIEVED.

22 (K) ONCE APPROVED, THE DEPARTMENT SHALL OVERSEE THE
23 IMPLEMENTATION OF THE BROWNFIELDS RESPONSE ACTION PLAN TO THE EXTENT
24 THE DEPARTMENT CONSIDERS NECESSARY.

25 (L) THE DEPARTMENT MAY WITHDRAW THE APPROVAL OF A BROWNFIELDS
26 RESPONSE ACTION PLAN AT ANY TIME DURING ITS IMPLEMENTATION IF:

27 (1) THE PERSON IMPLEMENTING THE BROWNFIELDS RESPONSE ACTION
28 PLAN SUBSTANTIALLY FAILS TO COMPLY WITH THE TERMS AND CONDITIONS OF
29 THE ACTION PLAN; OR

30 (2) A RELEASE BECOMES AN IMMINENT AND SUBSTANTIAL
31 ENDANGERMENT TO THE PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT.

32 (M) (1) AFTER AN APPROVED BROWNFIELDS RESPONSE ACTION PLAN IS
33 IMPLEMENTED AND COMPLETED TO THE SATISFACTION OF THE DEPARTMENT, THE
34 DEPARTMENT SHALL CERTIFY THAT THE REMOVAL OR REMEDIAL ACTION IS
35 COMPLETE BY ISSUING A LETTER OF NO FURTHER ACTION.

36 (2) A LETTER OF NO FURTHER ACTION PROHIBITS THE DEPARTMENT
37 FROM BRINGING AN ENFORCEMENT ACTION UNDER THIS PART OF THIS SUBTITLE.

38 (3) A PERSON WHO RECEIVES A LETTER OF NO FURTHER ACTION
39 UNDER THIS SUBSECTION SHALL ATTACH A COPY OF THE LETTER TO THE

10

1 RECORDED DEED THAT CONCERNS THE PROPERTY ON WHICH THE BROWNFIELDS
2 RESPONSE ACTION PLAN WAS IMPLEMENTED.

3 (4) NOTWITHSTANDING PARAGRAPHS (1) AND (2) OF THIS SUBSECTION,
4 THE DEPARTMENT MAY BRING AN ENFORCEMENT ACTION AGAINST A PERSON WHO
5 UNDERTAKES A REMOVAL OR REMEDIAL ACTION UNDER THIS SECTION IF:

6 (I) SUBSEQUENT DATA INDICATES THAT THE IMPLEMENTATION
7 OF THE BROWNFIELDS RESPONSE ACTION PLAN FAILED TO PROTECT THE PUBLIC
8 HEALTH OR WELFARE OR THE ENVIRONMENT;

9 (II) FRAUD OR MISREPRESENTATION IS SUBSEQUENTLY
10 DISCOVERED IN THE APPLICATION OR THE BROWNFIELDS RESPONSE ACTION PLAN;
11 OR

12 (III) FURTHER CONTAMINATION IS DISCOVERED.

13 (N) A PERSON WHO COMMITS FRAUD OR MISREPRESENTATION CONCERNING
14 THE ELIGIBILITY OF THE PERSON FOR PURPOSES OF SUBSECTION (D)(2)(I) OF THIS
15 SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE
16 OF NOT MORE THAN \$10,000 AND IMPRISONMENT OF NOT MORE THAN 1 YEAR OR
17 BOTH.

18 (O) (1) THE DEPARTMENT, IN CONJUNCTION WITH THE DEPARTMENT OF
19 BUSINESS AND ECONOMIC DEVELOPMENT, SHALL DEVELOP A PROGRAM OF
20 FINANCIAL INCENTIVES, INCLUDING LOW INTEREST LOANS AND GRANTS, TO ASSIST
21 ELIGIBLE PERSONS WHO PARTICIPATE IN THE BROWNFIELDS REVITALIZATION
22 PROGRAM IN THE FUNDING OF A REMOVAL OR REMEDIAL ACTION.

23 (2) AN ELIGIBLE PERSON MAY QUALIFY FOR THE PROPERTY TAX
24 CREDIT PROVIDED IN § 9-227 OF THE TAX - PROPERTY ARTICLE.

25 (P) THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO CARRY
26 OUT THE PURPOSES OF THIS SECTION.

27 7-223.2.

28 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

30 (2) "ELIGIBLE PERSON" MEANS A PERSON WHO IS NOT A RESPONSIBLE
31 PERSON AND WHO IS:

32 (I) A CURRENT OWNER OF AN ELIGIBLE SITE;

33 (II) A LENDER ASSOCIATED WITH AN ELIGIBLE SITE;

34 (III) A DEVELOPER ASSOCIATED WITH AN ELIGIBLE SITE; OR

35 (IV) A PROSPECTIVE PURCHASER OF AN ELIGIBLE SITE.

36 (3) (I) "ELIGIBLE SITE" MEANS A SITE AT WHICH THERE IS A RELEASE
37 OR THREATENED RELEASE OF A CONTROLLED HAZARDOUS SUBSTANCE.

38 (II) "ELIGIBLE SITE" DOES NOT INCLUDE A SITE THAT IS:

11

1 1. ON THE NATIONAL PRIORITIES LIST AS PROVIDED IN § 105
2 OF THE FEDERAL ACT;

3 2. PART OF AN OPERATING FACILITY THAT IS SUBJECT TO
4 DEPARTMENT REGULATIONS; OR

5 3. SUBJECT TO AN ENFORCEMENT ACTION BY THE
6 DEPARTMENT UNDER THIS SUBTITLE.

7 (B) (1) THERE IS A VOLUNTARY REMEDIATION PROGRAM ADMINISTERED
8 BY THE DEPARTMENT.

9 (2) UNDER THE VOLUNTARY REMEDIATION PROGRAM, AN ELIGIBLE
10 PERSON THAT IMPLEMENTS AND COMPLETES A VOLUNTARY RESPONSE ACTION
11 PLAN IN ACCORDANCE WITH THIS SECTION SHALL RECEIVE THE ASSURANCES
12 PROVIDED IN SUBSECTION (L) OF THIS SECTION.

13 (C) (1) TO PARTICIPATE IN THE PROGRAM, AN ELIGIBLE PERSON SHALL:

14 (I) SUBMIT TO THE DEPARTMENT AN APPLICATION AS PROVIDED
15 IN PARAGRAPH (2) OF THIS SUBSECTION ON THE FORM THAT THE DEPARTMENT
16 REQUIRES; AND

17 (II) PAY TO THE DEPARTMENT AN APPLICATION FEE OF \$10,000.

18 (2) THE APPLICATION SHALL INCLUDE:

19 (I) INFORMATION DEMONSTRATING THAT THE APPLICANT IS AN
20 ELIGIBLE PERSON;

21 (II) AN ENVIRONMENTAL ASSESSMENT THAT INCLUDES
22 INFORMATION CONCERNING THE NATURE AND EXTENT OF KNOWN
23 CONTAMINATION AT THE SITE; AND

24 (III) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

25 (3) WITHIN 30 DAYS AFTER RECEIVING A COMPLETE APPLICATION AND
26 THE APPLICATION FEE, THE DEPARTMENT SHALL NOTIFY THE APPLICANT IN
27 WRITING WHETHER THE APPLICATION IS ACCEPTED.

28 (4) THE DEPARTMENT MAY REJECT AN APPLICATION IF:

29 (I) THE APPLICANT DOES NOT DEMONSTRATE TO THE
30 SATISFACTION OF THE DEPARTMENT THAT THE APPLICANT IS AN ELIGIBLE PERSON;

31 (II) THE DEPARTMENT CONCLUDES THAT THE RESPONSE ACTION
32 AT THE SITE COVERED BY THE APPLICATION SHOULD BE IMPLEMENTED UNDER
33 OTHER REGULATORY AUTHORITIES; OR

34 (III) THE APPLICANT DOES NOT DEMONSTRATE TO THE
35 SATISFACTION OF THE DEPARTMENT THAT APPROVAL OF THE APPLICATION
36 WOULD BE IN THE PUBLIC INTEREST.

12

1 (5) A FINAL DECISION TO REJECT OR ACCEPT AN APPLICATION IS NOT
2 SUBJECT TO JUDICIAL REVIEW UNDER THIS ARTICLE OR ANY OTHER PROVISION OF
3 LAW.

4 (6) IF THE APPLICATION IS NOT ACCEPTED, THE DEPARTMENT SHALL
5 RETURN TO THE APPLICANT THE APPLICATION FEE.

6 (D) THE DEPARTMENT SHALL:

7 (1) USE THE APPLICATION FEE TO COVER THE COSTS OF
8 ADMINISTRATION AND OVERSIGHT OF THE VOLUNTARY REMEDIATION PROGRAM.

9 (2) AFTER COMPLETION OF A VOLUNTARY RESPONSE ACTION PLAN AS
10 PROVIDED IN SUBSECTION (L) OF THIS SECTION:

11 (I) REIMBURSE TO THE APPLICANT THAT PORTION OF THE
12 APPLICATION FEE THAT WAS NOT SPENT BY THE DEPARTMENT IN ADMINISTRATION
13 AND OVERSIGHT OF THE REMOVAL OR REMEDIAL ACTION; OR

14 (II) REQUIRE THE APPLICANT TO PAY TO THE DEPARTMENT THE
15 ADDITIONAL AMOUNT SPENT BY THE DEPARTMENT IN ADMINISTRATION AND
16 OVERSIGHT OF THE REMOVAL OR REMEDIAL ACTION.

17 (E) (1) AFTER AN APPLICANT RECEIVES NOTICE OF ACCEPTANCE, THE
18 PERSON SHALL SUBMIT A PROPOSED VOLUNTARY RESPONSE ACTION PLAN TO THE
19 DEPARTMENT.

20 (2) THE PROPOSED VOLUNTARY RESPONSE ACTION PLAN SHALL
21 INCLUDE:

22 (I) DOCUMENTATION THAT DESCRIBES THE METHODS AND
23 RESULTS OF AN INVESTIGATION OF THE RELEASES AT THE SITE;

24 (II) THE REMOVAL OR REMEDIAL ACTION TO BE PERFORMED
25 INCLUDING THE LONG-TERM MONITORING AND OPERATION AND MAINTENANCE
26 OF THE SITE;

27 (III) A DEMONSTRATION THAT THE ACTION, ONCE COMPLETED,
28 WILL PROTECT THE PUBLIC HEALTH AND WELFARE AND THE ENVIRONMENT; AND

29 (IV) ANY OTHER INFORMATION THE DEPARTMENT REQUIRES.

30 (3) REMOVAL OR REMEDIAL ACTIONS REQUIRED UNDER THIS SECTION
31 SHALL:

32 (I) BE CONSISTENT WITH THE STATE HAZARDOUS SUBSTANCE
33 RESPONSE PLAN; AND

34 (II) MEET THE SAME STANDARDS FOR THE PROTECTION OF
35 PUBLIC HEALTH AND WELFARE AND THE ENVIRONMENT THAT APPLY TO REMOVAL
36 AND REMEDIAL ACTIONS TAKEN OR REQUESTED UNDER THIS PART OF THIS
37 SUBTITLE.

38 (F) (1) CLEANUP STANDARDS SHALL BE BASED ON:

13

1 (I) FEDERAL OR STATE MAXIMUM CONTAMINANT LEVEL GOALS
2 (MCLGS) AND MAXIMUM CONTAMINANT LEVELS (MCLS);

3 (II) FEDERAL SOIL STANDARDS AND WATER QUALITY CRITERIA;

4 (III) RISK EVALUATIONS BASED ON SITE-SPECIFIC INFORMATION
5 AND CURRENT SCIENTIFIC INFORMATION; AND

6 (IV) ANY OTHER FEDERAL OR STATE STANDARDS THAT MAY BE
7 APPROPRIATE AND RELEVANT.

8 (2) WHEN APPROVING PROPOSED CLEANUP STANDARDS, THE
9 DEPARTMENT MAY:

10 (I) CONSIDER THE FUTURE INTENDED USE OF A PARTICULAR
11 SITE; AND

12 (II) APPROVE CLEANUP STANDARDS BASED ON WHETHER A SITE
13 IS:

14 1. LOCATED IN AN INDUSTRIAL AREA AND USED FOR
15 INDUSTRIAL PURPOSES;

16 2. LOCATED IN A RESIDENTIAL AREA AND USED FOR
17 INDUSTRIAL PURPOSES; OR

18 3. LOCATED IN A RESIDENTIAL AREA AND USED FOR
19 RESIDENTIAL OR OTHER PURPOSES THAT REQUIRE UNLIMITED PUBLIC ACCESS.

20 (3) THE DEPARTMENT SHALL ENSURE THAT CLEANUP STANDARDS
21 PROVIDED IN A VOLUNTARY RESPONSE ACTION PLAN THAT IS APPROVED UNDER
22 THIS SECTION PROTECT THE PUBLIC HEALTH AND WELFARE AND THE
23 ENVIRONMENT.

24 (G) (1) WITHIN 30 DAYS AFTER RECEIVING A COMPLETE PROPOSED
25 VOLUNTARY RESPONSE ACTION PLAN, THE DEPARTMENT SHALL:

26 (I) PUBLISH NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION
27 WITHIN THE COUNTY WHERE THE SITE IS LOCATED; AND

28 (II) TO THE EXTENT PRACTICABLE, MAIL NOTICE TO OWNERS OF
29 PROPERTY ADJACENT TO THE SITE.

30 (2) THE NOTICE SHALL:

31 (I) DESCRIBE THE NATURE AND EXTENT OF THE PROPOSED
32 REMOVAL OR REMEDIAL ACTION; AND

33 (II) ALLOW 30 DAYS FOR PUBLIC COMMENT.

34 (3) THE DEPARTMENT:

35 (I) MAY HOLD A PUBLIC HEARING ON THE PROPOSED
36 VOLUNTARY RESPONSE ACTION PLAN AT ITS DISCRETION; AND

14

1 (II) SHALL HOLD A PUBLIC HEARING ON THE PROPOSED
2 VOLUNTARY RESPONSE ACTION PLAN WHEN A WRITTEN REQUEST FOR A PUBLIC
3 HEARING IS MADE WITHIN 20 DAYS AFTER PUBLICATION OF THE NOTICE.

4 (H) (1) TO THE MAXIMUM EXTENT PRACTICABLE, WITHIN 60 DAYS AFTER
5 THE PUBLIC PARTICIPATION PERIOD PROVIDED IN SUBSECTION (G) OF THIS
6 SECTION HAS ENDED, THE DEPARTMENT SHALL NOTIFY THE PERSON OF ITS
7 DECISION ON THE DISPOSITION OF THE PROPOSED VOLUNTARY RESPONSE ACTION
8 PLAN.

9 (2) TAKING INTO CONSIDERATION ALL WRITTEN COMMENTS AND
10 PUBLIC TESTIMONY, THE DEPARTMENT SHALL:

11 (I) APPROVE THE PROPOSED VOLUNTARY RESPONSE ACTION
12 PLAN;

13 (II) MODIFY AND APPROVE THE PROPOSED VOLUNTARY
14 RESPONSE ACTION PLAN; OR

15 (III) REJECT THE PROPOSED VOLUNTARY RESPONSE ACTION PLAN.

16 (3) THE DEPARTMENT MAY NOT APPROVE A PROPOSED VOLUNTARY
17 RESPONSE ACTION PLAN UNLESS THE DEPARTMENT DETERMINES THAT THE
18 NATURE AND EXTENT OF THE RELEASES HAVE BEEN ADEQUATELY IDENTIFIED
19 AND EVALUATED.

20 (I) (1) WHEN THE PROPOSED VOLUNTARY RESPONSE ACTION PLAN IS
21 APPROVED, THE DEPARTMENT SHALL ENTER INTO A VOLUNTARY REMEDIATION
22 AGREEMENT WITH THE PERSON WHO INTENDS TO IMPLEMENT THE VOLUNTARY
23 RESPONSE ACTION PLAN.

24 (2) THE VOLUNTARY REMEDIATION AGREEMENT SHALL, AT A
25 MINIMUM:

26 (I) OUTLINE THE STEPS TO BE TAKEN IN THE REMOVAL,
27 REMEDIATION, MONITORING, OPERATION, AND MAINTENANCE OF THE SITE; AND

28 (II) STATE THE CLEANUP STANDARDS THAT SHALL BE ACHIEVED.

29 (J) ONCE APPROVED, THE DEPARTMENT SHALL OVERSEE THE
30 IMPLEMENTATION OF THE VOLUNTARY RESPONSE ACTION PLAN TO THE EXTENT
31 THE DEPARTMENT CONSIDERS NECESSARY.

32 (K) THE DEPARTMENT MAY WITHDRAW THE APPROVAL OF A VOLUNTARY
33 RESPONSE ACTION PLAN AT ANY TIME DURING ITS IMPLEMENTATION IF:

34 (1) THE PERSON IMPLEMENTING THE VOLUNTARY RESPONSE ACTION
35 PLAN SUBSTANTIALLY FAILS TO COMPLY WITH THE TERMS AND CONDITIONS OF
36 THE ACTION PLAN; OR

37 (2) A RELEASE BECOMES AN IMMINENT AND SUBSTANTIAL
38 ENDANGERMENT TO THE PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT.

15

1 (L) (1) AFTER AN APPROVED VOLUNTARY RESPONSE ACTION PLAN IS
2 IMPLEMENTED AND COMPLETED TO THE SATISFACTION OF THE DEPARTMENT, THE
3 DEPARTMENT SHALL CERTIFY THAT THE REMOVAL OR REMEDIAL ACTION IS
4 COMPLETE BY ISSUING A LETTER OF NO FURTHER ACTION.

5 (2) A LETTER OF NO FURTHER ACTION PROHIBITS THE DEPARTMENT
6 FROM BRINGING AN ENFORCEMENT ACTION UNDER THIS PART OF THIS SUBTITLE.

7 (3) A PERSON WHO RECEIVES A LETTER OF NO FURTHER ACTION
8 UNDER THIS SUBSECTION SHALL ATTACH A COPY OF THE LETTER TO THE
9 RECORDED DEED THAT CONCERNS THE PROPERTY ON WHICH THE VOLUNTARY
10 RESPONSE ACTION PLAN WAS IMPLEMENTED.

11 (4) NOTWITHSTANDING PARAGRAPHS (1) AND (2) OF THIS SUBSECTION,
12 THE DEPARTMENT MAY BRING AN ENFORCEMENT ACTION AGAINST A PERSON WHO
13 UNDERTAKES A REMOVAL OR REMEDIAL ACTION UNDER THIS SECTION IF:

14 (I) SUBSEQUENT DATA INDICATES THAT THE IMPLEMENTATION
15 OF THE VOLUNTARY RESPONSE ACTION PLAN FAILED TO PROTECT THE PUBLIC
16 HEALTH OR WELFARE OR THE ENVIRONMENT;

17 (II) FRAUD OR MISREPRESENTATION IS SUBSEQUENTLY
18 DISCOVERED IN THE APPLICATION OR THE VOLUNTARY RESPONSE ACTION PLAN;
19 OR

20 (III) FURTHER CONTAMINATION IS DISCOVERED.

21 (M) A PERSON WHO COMMITS FRAUD OR MISREPRESENTATION CONCERNING
22 WHETHER THE PERSON IS AN ELIGIBLE PERSON FOR PURPOSES OF SUBSECTION
23 (C)(2)(I) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS
24 SUBJECT TO A FINE OF NOT MORE THAN \$10,000 AND IMPRISONMENT OF NOT MORE
25 THAN 1 YEAR OR BOTH.

26 (N) THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO CARRY
27 OUT THE PURPOSES OF THIS SECTION.

28 **Article - Tax - Property**

29 9-227.

30 (A) THE GOVERNING BODY OF A COUNTY OR A MUNICIPAL CORPORATION
31 MAY GRANT A TAX CREDIT AGAINST THE PROPERTY TAX IMPOSED ON REAL
32 PROPERTY ON WHICH A BROWNFIELDS RESPONSE ACTION PLAN HAS BEEN
33 IMPLEMENTED AND COMPLETED IN ACCORDANCE WITH § 7-223.1 OF THE
34 ENVIRONMENT ARTICLE.

35 (B) A COUNTY OR MUNICIPAL CORPORATION MAY PROVIDE, BY LAW, FOR:

36 (1) THE AMOUNT OF A PROPERTY TAX CREDIT UNDER THIS SECTION;

37 (2) THE DURATION OF A PROPERTY TAX CREDIT UNDER THIS SECTION;

38 AND

39 (3) ANY OTHER PROVISION NECESSARY TO CARRY OUT THIS SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act is
2 intended to nor shall it be construed to amend, modify, repeal, or otherwise alter the
3 authority of the Department to take appropriate civil and criminal action under Title 7 of
4 the Environment Article.

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 1996.