
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

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CHAPTER _____

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; authorizing
16 the transfer of a certain letter to certain persons; prohibiting the Department from
17 bringing certain enforcement actions under certain circumstances; establishing
18 certain criminal penalties for certain acts of fraud or misrepresentation; providing
19 for the recovery and reimbursement of certain costs for certain expenses incurred by
20 the Department ~~or certain persons~~ under certain circumstances; requiring the
21 Department to adopt certain regulations; requiring the Department of Business and
22 Economic Development, in conjunction with the Department of ~~Business and~~
23 ~~Economic Development~~ the Environment, to publish a certain list of certain sites
24 that qualify for certain actions under the Brownfields Revitalization Program;
25 requiring the Departments to develop a certain program of financial incentives to
26 participants in the Brownfields Revitalization Program; establishing a certain fund

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1 for certain purposes; authorizing certain local governing bodies to grant a certain
2 property tax credit on certain property on which a Brownfields Response Action
3 Plan has been implemented and completed; defining certain terms; providing for a
4 certain construction of this Act; and generally relating to the establishment of a
5 Brownfields Revitalization Program and Voluntary Remediation Program.

6 BY repealing and reenacting, with amendments,
7 Article - Environment
8 Section 7-201(x) and 7-221
9 Annotated Code of Maryland
10 (1993 Replacement Volume and 1995 Supplement)

11 BY adding to
12 Article - Environment
13 Section 7-223.1 and ~~7-223.2~~, 7-223.2, and 7-223.3
14 Annotated Code of Maryland
15 (1993 Replacement Volume and 1995 Supplement)

16 BY adding to
17 Article - Tax - Property
18 Section 9-227
19 Annotated Code of Maryland
20 (1994 Replacement Volume and 1995 Supplement)

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

23 **Article - Environment**

24 7-201.

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

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

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

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

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

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

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

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

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

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

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

24 1. Participates in the day-to-day management of the site or
25 property; or

26 2. Directly causes the discharge of a hazardous substance on or
27 from the site;

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

30 1. Does not participate in the day-to-day management of the
31 site; and

32 2. Does not directly cause the discharge of a hazardous
33 substance on or from the site; [or]

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

36 1. A state, county, or municipal government;

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

38 3. Any unit of a state, county, or municipal government or any
39 other political subdivision;

1 (VIII) A HOLDER OF A MORTGAGE OR DEED OF TRUST WHO
2 ACQUIRES TITLE TO A SITE SUBJECT TO A BROWNFIELDS RESPONSE ACTION PLAN, A
3 VOLUNTARY RESPONSE ACTION PLAN, OR A VOLUNTARY REMEDIATION
4 AGREEMENT UNDER THIS SUBTITLE, PROVIDED THAT THE HOLDER COMPLIES WITH
5 THE REQUIREMENTS, PROHIBITIONS, AND CONDITIONS OF THE PLAN OR
6 AGREEMENT IN THE SAME MANNER AS THE APPLICANT WHO SUBMITTED THE PLAN
7 OR AGREEMENT; OR

8 (IX) A LENDER WHO:

9 1. EXTENDS CREDIT FOR THE PERFORMANCE OF REMOVAL
10 OR REMEDIAL ACTIONS CONDUCTED IN ACCORDANCE WITH REQUIREMENTS
11 IMPOSED UNDER THIS TITLE; OR

12 2. TAKES ACTION TO PROTECT OR PRESERVE A SECURITY
13 INTEREST IN A SITE AT WHICH A RELEASE OR THREATENED RELEASE OF A
14 HAZARDOUS SUBSTANCE HAS OCCURRED, BY STABILIZING, CONTAINING,
15 REMOVING, OR PREVENTING THE RELEASE OF A HAZARDOUS SUBSTANCE IN A
16 MANNER THAT DOES NOT CAUSE OR CONTRIBUTE TO ONGOING RELEASES OF A
17 HAZARDOUS SUBSTANCE AT THE SITE.

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

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

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

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

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

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

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

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

40 (5) (i) For purposes of paragraph (2)(iii), (iv), (v), and (vi) of this
41 subsection, "management" means directing or controlling operations, production or

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1 treatment of a hazardous substance, storage or disposal of a hazardous substance, or
2 remediation of a hazardous substance release.

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

8 7-221.

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

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

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

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

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

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

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

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

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

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

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

3 (G) (1) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
4 PARAGRAPH, IF THE DEPARTMENT IDENTIFIES A RESPONSIBLE PERSON FOR A
5 RELEASE OR THREATENED RELEASE AT A SITE WHERE A BROWNFIELDS RESPONSE
6 ACTION PLAN OR VOLUNTARY RESPONSE ACTION PLAN HAS BEEN IMPLEMENTED
7 AND COMPLETED IN ACCORDANCE WITH § 7-223.1 OR § 7-223.2 OF THIS SUBTITLE, THE
8 DEPARTMENT MAY BRING A LEGAL ACTION AGAINST THE RESPONSIBLE PERSON TO
9 RECOVER THE COSTS INCURRED IN THE PERFORMANCE OF THE REMOVAL OR
10 REMEDIAL ACTION.

11 (II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH
12 DO NOT APPLY TO A RESPONSIBLE PERSON FOR ANY RELEASE OR THREATENED
13 RELEASE OF A HAZARDOUS SUBSTANCE THAT IS AT A SITE COVERED BY AN
14 APPLICATION SUBMITTED AND ACCEPTED UNDER § 7-223.2 OF THIS SUBTITLE IF THE
15 RESPONSIBLE PERSON IMPLEMENTS AND COMPLETES THE RESPONSE ACTION PLAN
16 AND COMPLIES WITH THE VOLUNTARY REMEDIATION AGREEMENT FOR THE SITE.

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

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

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

26 (III) OVERSIGHT OF THE PREPARATION AND IMPLEMENTATION OF
27 THE 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) "BACKGROUND LEVEL" MEANS THE LEVEL OF A SUBSTANCE
37 OCCURRING NATURALLY AT THE SITE PRIOR TO ANY MAN-MADE SPILL OR
38 RELEASE.

39 ~~(2)~~ (3) "ELIGIBLE PERSON" MEANS A PERSON WHO IS NOT A
40 RESPONSIBLE PERSON AND WHO IS:

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

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

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

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

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

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

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

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

11 3. SUBJECT TO AN ENFORCEMENT ACTION BY THE
12 DEPARTMENT UNDER THIS SUBTITLE; OR

13 4. CONTAMINATED BY A RELEASE OR THREATENED
14 RELEASE CAUSED BY THE DISPOSAL OF HAZARDOUS SUBSTANCES AFTER OCTOBER
15 1, 1996.

16 (5) "IMMINENT OR SUBSTANTIAL THREAT" MEANS A RELEASE OR
17 THREATENED RELEASE OF A HAZARDOUS SUBSTANCE THAT MAY POSE A RISK OF
18 SIGNIFICANT HARM TO THE PUBLIC HEALTH OR WELFARE AND THE ENVIRONMENT
19 AT SOME FORESEEABLE TIME IN THE FUTURE AND IS NOT LIMITED TO AN
20 EMERGENCY SITUATION.

21 ~~(4)~~ (6) "LISTED SITE" MEANS AN ELIGIBLE SITE THAT IS LISTED BY
22 THE DEPARTMENT ON THE FINAL LIST OF BROWNFIELDS SITES AS PROVIDED IN
23 SUBSECTION (C) OF THIS SECTION.

24 (B) (1) THERE IS A BROWNFIELDS REVITALIZATION PROGRAM
25 ADMINISTERED BY THE DEPARTMENT.

26 (2) THE PURPOSE OF THE BROWNFIELDS REVITALIZATION PROGRAM IS
27 TO:

28 (I) PROVIDE INCENTIVES FOR THE REDEVELOPMENT OF URBAN
29 AREAS AND ECONOMICALLY DISTRESSED AREAS THROUGHOUT THE STATE;

30 (II) PREVENT URBAN SPRAWL;

31 (III) ENCOURAGE ECONOMIC REVITALIZATION; AND

32 (IV) EXPAND EMPLOYMENT OPPORTUNITIES.

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

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

8

1 (II) SHALL RECEIVE THE ASSURANCES PROVIDED IN SUBSECTION
2 (M) OF THIS SECTION.

3 (C) (1) BY OCTOBER 1, 1997, THE DEPARTMENT OF BUSINESS AND
4 ECONOMIC DEVELOPMENT, IN CONJUNCTION WITH THE DEPARTMENT OF ~~BUSINESS~~
5 ~~AND ECONOMIC DEVELOPMENT~~, SHALL PUBLISH A LIST OF NO MORE THAN 100
6 ELIGIBLE SITES THAT QUALIFY FOR REMOVAL OR REMEDIAL ACTION UNDER THIS
7 SECTION.

8 (2) THE DEPARTMENTS SHALL SELECT ELIGIBLE SITES BASED ON THE
9 FOLLOWING CRITERIA:

10 (I) THE LOCATION OF THE SITE IN AN INTENSELY DEVELOPED,
11 URBAN AREA;

12 (II) POTENTIAL INTEREST IN REDEVELOPING THE SITE
13 FOLLOWING COMPLETION OF A REMOVAL OR REMEDIAL ACTION UNDER THIS
14 SECTION;

15 (III) POTENTIAL OF CREATION OF NEW JOBS FROM A PROPOSED
16 BUSINESS ENTITY AND THE RETENTION OF EXISTING JOBS IN AREAS OF ECONOMIC
17 DISTRESS;

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

20 (V) THE EXTENT OF RELEASES OR THREATENED RELEASES AT
21 THE SITE AND THE DEGREE TO WHICH A BROWNFIELDS RESPONSE ACTION PLAN
22 CAN BE IMPLEMENTED TO PROTECT THE PUBLIC HEALTH AND WELFARE AND THE
23 ENVIRONMENT WITHIN A REASONABLE TIME FRAME AND AT A REASONABLE COST;
24 AND

25 (VI) THE ABSENCE OF IDENTIFIABLE AND SOLVENT RESPONSIBLE
26 PERSONS.

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

29 (I) RELEVANT STATE AND LOCAL OFFICIALS;

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

32 (III) CONCERNED CITIZENS;

33 (IV) REPRESENTATIVES OF STATE AND LOCAL ENVIRONMENTAL
34 ORGANIZATIONS;

35 (V) PUBLIC HEALTH EXPERTS; AND

36 (VI) ANY OTHER AFFECTED PARTY THE DEPARTMENTS DEEM
37 APPROPRIATE.

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

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

7 (6) AT LEAST ANNUALLY, THE DEPARTMENTS SHALL UPDATE THE
8 FINAL LIST BY ADDING OR DELETING ELIGIBLE SITES AS APPROPRIATE, PROVIDED
9 THAT THE FINAL LIST MAY NOT CONTAIN MORE THAN 125 SITES DURING ANY
10 12-MONTH PERIOD.

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

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

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

17 (2) THE APPLICATION SHALL INCLUDE:

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

20 (II) INFORMATION DEMONSTRATING THAT THE APPLICATION
21 PERTAINS TO A LISTED SITE;

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

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

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

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

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

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

33 (III) THE DEPARTMENT CONCLUDES THAT THE RESPONSE ACTION
34 AT THE SITE COVERED BY THE APPLICATION SHOULD BE IMPLEMENTED UNDER
35 OTHER REGULATORY AUTHORITIES; OR

36 (IV) THE APPLICANT DOES NOT DEMONSTRATE TO THE
37 SATISFACTION OF THE DEPARTMENT THAT APPROVAL OF THE APPLICATION
38 WOULD BE IN THE PUBLIC INTEREST.

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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 THAT PORTION OF THE APPLICATION FEE THAT IS NOT
6 REQUIRED TO REIMBURSE THE DEPARTMENT FOR THE COSTS OF PROCESSING THE
7 APPLICATION.

8 (E) THE DEPARTMENT SHALL:

9 (1) USE THE APPLICATION FEE TO COVER THE COSTS OF
10 ADMINISTRATION AND OVERSIGHT OF THE BROWNFIELDS REVITALIZATION
11 PROGRAM.

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

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

17 (II) REQUIRE THE APPLICANT TO PAY TO THE DEPARTMENT THE
18 ADDITIONAL AMOUNT SPENT BY THE DEPARTMENT IN THE ADMINISTRATION AND
19 OVERSIGHT OF THE REMOVAL OR REMEDIAL ACTION.

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

23 (2) THE PROPOSED BROWNFIELDS RESPONSE ACTION PLAN SHALL
24 INCLUDE:

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

27 (II) THE REMOVAL OR REMEDIAL ACTION TO BE PERFORMED
28 INCLUDING THE LONG-TERM MONITORING AND OPERATION AND MAINTENANCE
29 OF THE SITE;

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

32 (IV) ANY OTHER INFORMATION THE DEPARTMENT REQUIRES.

33 (3) REMOVAL OR REMEDIAL ACTIONS REQUIRED UNDER THIS SECTION
34 SHALL:

35 (I) BE CONSISTENT WITH THE STATE HAZARDOUS SUBSTANCE
36 RESPONSE PLAN; AND

37 (II) MEET THE SAME STANDARDS FOR THE PROTECTION OF
38 PUBLIC HEALTH AND WELFARE AND THE ENVIRONMENT THAT APPLY TO REMOVAL

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1 OR REMEDIAL ACTIONS TAKEN OR REQUESTED UNDER THIS PART OF THIS
2 SUBTITLE.

3 (G) (1) ~~CLEANUP STANDARDS SHALL BE BASED ON SELECTION OF~~
4 ~~REMEDIAL ACTION SHALL BE BASED ON ONE OR MORE OF THE FOLLOWING~~
5 ~~CLEANUP STANDARDS AS MAY BE APPROPRIATE AND RELEVANT:~~

6 (I) FEDERAL OR STATE MAXIMUM CONTAMINANT LEVEL GOALS
7 (MCLGS) AND MAXIMUM CONTAMINANT LEVELS (MCLS);

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

9 (III) RISK EVALUATIONS BASED ON SITE-SPECIFIC INFORMATION
10 AND CURRENT SCIENTIFIC INFORMATION; ~~AND~~

11 (IV) UNIFORM NUMERIC CLEANUP STANDARDS DETERMINED BY
12 THE DEPARTMENT;

13 (V) BACKGROUND LEVELS; AND

14 ~~(IV) (VI) ANY OTHER FEDERAL OR STATE STANDARDS THAT MAY~~
15 ~~BE APPROPRIATE AND RELEVANT.~~

16 (2) WHEN APPROVING PROPOSED CLEANUP STANDARDS, THE
17 DEPARTMENT ~~MAY:~~

18 ~~(I) CONSIDER THE FUTURE INTENDED USE OF A PARTICULAR~~
19 ~~SITE; AND~~

20 ~~(II) APPROVE CLEANUP STANDARDS BASED ON~~ SHALL CONSIDER
21 WHETHER A SITE IS:

22 ~~1- (I)~~ LOCATED IN AN INDUSTRIAL AREA AND USED FOR
23 INDUSTRIAL PURPOSES;

24 ~~2- (II)~~ LOCATED IN A RESIDENTIAL AREA AND USED FOR
25 INDUSTRIAL PURPOSES; OR

26 ~~3- (III)~~ LOCATED IN A RESIDENTIAL AREA AND USED FOR
27 RESIDENTIAL OR OTHER PURPOSES THAT REQUIRE UNLIMITED PUBLIC ACCESS.

28 (3) THE DEPARTMENT SHALL ENSURE THAT CLEANUP STANDARDS
29 PROVIDED IN A BROWNFIELDS RESPONSE ACTION PLAN THAT IS APPROVED UNDER
30 THIS SECTION PROTECT THE PUBLIC HEALTH AND WELFARE AND THE
31 ENVIRONMENT.

32 (H) (1) WITHIN 30 DAYS AFTER RECEIVING A COMPLETE PROPOSED
33 BROWNFIELDS RESPONSE ACTION PLAN, THE DEPARTMENT SHALL REQUIRE THE
34 APPLICANT TO:

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

12

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

3 (2) THE NOTICE SHALL:

4 (I) DESCRIBE THE NATURE AND EXTENT OF THE PROPOSED
5 REMOVAL OR REMEDIAL ACTION; AND

6 (II) ALLOW 30 DAYS FOR PUBLIC COMMENT.

7 (3) THE DEPARTMENT:

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

10 (II) SHALL HOLD A PUBLIC ~~HEARING~~ INFORMATIONAL MEETING
11 ON THE PROPOSED BROWNFIELDS RESPONSE ACTION PLAN ~~WHEN IF AT LEAST 5~~
12 RESIDENTS FROM SEPARATE HOUSEHOLDS IN COMMUNITIES ADJACENT TO THE
13 SITE AND POTENTIALLY AFFECTED BY THE REMOVAL OR REMEDIAL ACTION
14 PROPOSED AT THE SITE FILE A WRITTEN REQUEST FOR A PUBLIC ~~HEARING IS MADE~~
15 INFORMATIONAL MEETING WITHIN 20 DAYS AFTER PUBLICATION OF THE NOTICE.

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

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

23 (I) APPROVE THE PROPOSED BROWNFIELDS RESPONSE ACTION
24 PLAN;

25 (II) MODIFY AND APPROVE THE PROPOSED BROWNFIELDS
26 RESPONSE ACTION PLAN; OR

27 (III) REJECT THE PROPOSED BROWNFIELDS RESPONSE ACTION
28 PLAN.

29 (3) THE DEPARTMENT MAY NOT APPROVE A PROPOSED BROWNFIELDS
30 RESPONSE ACTION PLAN UNLESS THE DEPARTMENT DETERMINES THAT THE
31 NATURE AND EXTENT OF THE RELEASES HAVE BEEN ADEQUATELY IDENTIFIED
32 AND EVALUATED.

33 (J) (1) WHEN THE PROPOSED BROWNFIELDS RESPONSE ACTION PLAN IS
34 APPROVED, THE DEPARTMENT SHALL ENTER INTO A VOLUNTARY REMEDIATION
35 AGREEMENT WITH THE PERSON WHO INTENDS TO IMPLEMENT THE BROWNFIELDS
36 RESPONSE ACTION PLAN.

37 (2) THE VOLUNTARY REMEDIATION AGREEMENT, AT A MINIMUM,
38 SHALL:

13

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

3 (II) STATE THE CLEANUP STANDARDS THAT SHALL BE ACHIEVED;
4 AND

5 (III) CONTAIN ANY OTHER PROVISIONS THAT THE DEPARTMENT
6 DETERMINES TO BE NECESSARY TO PROTECT PUBLIC HEALTH, THE ENVIRONMENT,
7 OR THE INTERESTS OF THE STATE, OR TO ENHANCE THE EFFICIENT OPERATION OF
8 THE PROGRAM.

9 (K) ONCE APPROVED, THE DEPARTMENT SHALL OVERSEE THE
10 IMPLEMENTATION OF THE BROWNFIELDS RESPONSE ACTION PLAN TO THE EXTENT
11 THE DEPARTMENT CONSIDERS NECESSARY.

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

14 (1) THE PERSON IMPLEMENTING THE BROWNFIELDS RESPONSE ACTION
15 PLAN SUBSTANTIALLY FAILS TO COMPLY WITH THE TERMS AND CONDITIONS OF
16 THE ACTION PLAN; OR

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

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

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

25 (3) ~~(I) A PERSON WHO RECEIVES A LETTER OF NO FURTHER ACTION~~
26 ~~UNDER THIS SUBSECTION SHALL ATTACH A COPY OF THE LETTER TO THE~~
27 ~~RECORDED DEED THAT CONCERNS THE PROPERTY ON~~ RECORD THE LETTER IN THE
28 LAND RECORDS OF THE LOCAL JURISDICTION IN WHICH THE BROWNFIELDS
29 RESPONSE ACTION PLAN WAS IMPLEMENTED.

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

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

35 ~~(I) SUBSEQUENT DATA INDICATES THAT THE IMPLEMENTATION~~
36 ~~OF THE BROWNFIELDS RESPONSE ACTION PLAN FAILED TO PROTECT THE PUBLIC~~
37 ~~HEALTH OR WELFARE~~ THERE IS AN IMMINENT OR SUBSTANTIAL THREAT TO PUBLIC
38 HEALTH OR THE ENVIRONMENT;

39 (II) THE LETTER OF NO FURTHER ACTION WAS OBTAINED
40 THROUGH FRAUD OR MATERIAL MISREPRESENTATION IS SUBSEQUENTLY

14

1 ~~DISCOVERED IN THE APPLICATION OR THE BROWNFIELDS RESPONSE ACTION PLAN;~~
2 ~~OR;~~

3 (III) FURTHER NEW CONTAMINATION IS ~~DISCOVERED~~ FOUND;

4 (IV) PREVIOUSLY UNDISCOVERED CONTAMINATION IS FOUND;

5 (V) THE ELIGIBLE SITE FAILS TO MEET THE APPLICABLE CLEANUP
6 CRITERIA SET FORTH IN THE RESPONSE ACTION PLAN APPROVED BY THE
7 DEPARTMENT;

8 (VI) THE PERSON DOES NOT COMPLY WITH CONDITIONS ON THE
9 PERMISSIBLE USES OF THE PROPERTY; OR

10 (VII) THE LONG-TERM OPERATION AND MAINTENANCE SET FORTH
11 IN THE APPROVED RESPONSE ACTION PLAN HAS NOT BEEN PERFORMED.

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

17 (O) (1) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT, IN
18 CONJUNCTION WITH THE DEPARTMENT ~~OF BUSINESS AND ECONOMIC~~
19 ~~DEVELOPMENT~~, SHALL DEVELOP A PROGRAM OF FINANCIAL INCENTIVES,
20 INCLUDING LOW INTEREST LOANS AND GRANTS, TO ASSIST ELIGIBLE PERSONS WHO
21 PARTICIPATE IN THE BROWNFIELDS REVITALIZATION PROGRAM IN THE FUNDING
22 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) "BACKGROUND LEVEL" MEANS THE LEVEL OF A SUBSTANCE
31 OCCURRING NATURALLY AT THE SITE PRIOR TO ANY MAN-MADE SPILL OR
32 RELEASE.

33 ~~(2)~~ (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
34 PARAGRAPH, "ELIGIBLE PERSON" MEANS A PERSON WHO IS NOT A RESPONSIBLE
35 PERSON AND WHO IS:

36 ~~(1)~~ 1. A CURRENT OWNER OF AN ELIGIBLE SITE;

37 ~~(2)~~ 2. A LENDER ASSOCIATED WITH AN ELIGIBLE SITE;

38 ~~(3)~~ 3. A DEVELOPER ASSOCIATED WITH AN ELIGIBLE SITE; OR

15

1 ~~(IV)~~ 4. A PROSPECTIVE PURCHASER OF AN ELIGIBLE SITE.

2 (II) "ELIGIBLE PERSON" INCLUDES A RESPONSIBLE PERSON
3 DESCRIBED IN § 7-201(X)(1) OF THIS SUBTITLE WHO DID NOT CAUSE A RELEASE OR
4 THREATENED RELEASE BY NEGLIGENCE, KNOWINGLY, OR WILFULLY VIOLATING
5 ANY REQUIREMENT OR PROHIBITION IMPOSED UNDER THIS TITLE.

6 ~~(3)~~ (4) (I) "ELIGIBLE SITE" MEANS A SITE AT WHICH THERE IS A
7 RELEASE OR THREATENED RELEASE OF A CONTROLLED HAZARDOUS SUBSTANCE.

8 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
9 PARAGRAPH, "ELIGIBLE SITE" DOES NOT INCLUDE A SITE THAT IS:

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

12 2. PART OF AN OPERATING FACILITY THAT IS SUBJECT TO
13 DEPARTMENT REGULATIONS; ~~OR~~

14 3. SUBJECT TO AN ENFORCEMENT ACTION BY THE
15 DEPARTMENT UNDER THIS SUBTITLE; OR

16 4. CONTAMINATED BY A RELEASE OR THREATENED
17 RELEASE CAUSED BY THE DISPOSAL OF HAZARDOUS SUBSTANCES AFTER OCTOBER
18 1, 1996.

19 (III) "ELIGIBLE SITE" INCLUDES A SITE DETERMINED BY THE
20 DEPARTMENT TO BE ELIGIBLE UNDER SUBSECTION (C)(7) OF THIS SECTION.

21 (5) "IMMINENT OR SUBSTANTIAL THREAT" MEANS A RELEASE OR
22 THREATENED RELEASE OF A HAZARDOUS SUBSTANCE THAT MAY POSE A RISK OF
23 SIGNIFICANT HARM TO THE PUBLIC HEALTH OR WELFARE AND THE ENVIRONMENT
24 AT SOME FORESEEABLE TIME IN THE FUTURE AND IS NOT LIMITED TO AN
25 EMERGENCY SITUATION.

26 (B) (1) THERE IS A VOLUNTARY REMEDIATION PROGRAM ADMINISTERED
27 BY THE DEPARTMENT.

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

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

33 (I) SUBMIT TO THE DEPARTMENT AN APPLICATION AS PROVIDED
34 IN PARAGRAPH (2) OF THIS SUBSECTION ON THE FORM THAT THE DEPARTMENT
35 REQUIRES; AND

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

37 (2) THE APPLICATION SHALL INCLUDE:

16

1 (I) INFORMATION DEMONSTRATING THAT THE APPLICANT IS AN
2 ELIGIBLE PERSON;

3 (II) AN ENVIRONMENTAL ASSESSMENT THAT INCLUDES
4 INFORMATION CONCERNING THE NATURE AND EXTENT OF KNOWN
5 CONTAMINATION AT THE SITE; AND

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

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

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

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

13 (II) THE DEPARTMENT CONCLUDES THAT THE RESPONSE ACTION
14 AT THE SITE COVERED BY THE APPLICATION SHOULD BE IMPLEMENTED UNDER
15 OTHER REGULATORY AUTHORITIES; OR

16 (III) THE APPLICANT DOES NOT DEMONSTRATE TO THE
17 SATISFACTION OF THE DEPARTMENT THAT APPROVAL OF THE APPLICATION
18 WOULD BE IN THE PUBLIC INTEREST.

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

22 (6) IF THE APPLICATION IS NOT ACCEPTED, THE DEPARTMENT SHALL
23 RETURN TO THE APPLICANT THAT PORTION OF THE APPLICATION FEE THAT IS NOT
24 REQUIRED TO REIMBURSE THE DEPARTMENT FOR THE COSTS OF PROCESSING THE
25 APPLICATION.

26 (7) IN ITS SOLE DISCRETION, THE DEPARTMENT MAY DETERMINE THAT
27 A PART OF AN OPERATING FACILITY IS AN ELIGIBLE SITE FOR THE PURPOSES OF
28 THE VOLUNTARY REMEDIATION PROGRAM IF THE PART OF THE OPERATING
29 FACILITY IS NOT:

30 (I) A REGULATED UNIT UNDER A CONTROLLED HAZARDOUS
31 SUBSTANCE PERMIT ISSUED UNDER THIS SUBTITLE; OR

32 (II) SUBJECT TO A PERMIT UNDER TITLE 9, SUBTITLE 3 OF THIS
33 ARTICLE.

34 (D) THE DEPARTMENT SHALL:

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

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

17

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

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

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

10 (2) THE PROPOSED VOLUNTARY RESPONSE ACTION PLAN SHALL
11 INCLUDE:

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

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

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

19 (IV) ANY OTHER INFORMATION THE DEPARTMENT REQUIRES.

20 (3) REMOVAL OR REMEDIAL ACTIONS REQUIRED UNDER THIS SECTION
21 SHALL:

22 (I) BE CONSISTENT WITH THE STATE HAZARDOUS SUBSTANCE
23 RESPONSE PLAN; AND

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

28 (F) (1) ~~CLEANUP STANDARDS SHALL BE BASED ON~~ SELECTION OF
29 REMEDIAL ACTION SHALL BE BASED ON ONE OR MORE OF THE FOLLOWING
30 CLEANUP STANDARDS AS MAY BE APPROPRIATE AND RELEVANT:

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) UNIFORM NUMERIC CLEANUP STANDARDS DETERMINED BY
37 THE DEPARTMENT;

38 (V) BACKGROUND LEVELS; AND

18

1 ~~(IV) (VI)~~ ANY OTHER FEDERAL OR STATE STANDARDS THAT MAY
2 BE APPROPRIATE AND RELEVANT.

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

5 ~~(I) CONSIDER THE FUTURE INTENDED USE OF A PARTICULAR~~
6 ~~SITE; AND~~

7 ~~(II) APPROVE CLEANUP STANDARDS BASED ON~~ SHALL CONSIDER
8 WHETHER A SITE IS:

9 1- (I) LOCATED IN AN INDUSTRIAL AREA AND USED FOR
10 INDUSTRIAL PURPOSES;

11 2- (II) LOCATED IN A RESIDENTIAL AREA AND USED FOR
12 INDUSTRIAL PURPOSES; OR

13 3- (III) LOCATED IN A RESIDENTIAL AREA AND USED FOR
14 RESIDENTIAL OR OTHER PURPOSES THAT REQUIRE UNLIMITED PUBLIC ACCESS.

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

19 (G) (1) WITHIN 30 DAYS AFTER RECEIVING A COMPLETE PROPOSED
20 VOLUNTARY RESPONSE ACTION PLAN, THE DEPARTMENT SHALL REQUIRE THE
21 APPLICANT TO:

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

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

26 (2) THE NOTICE SHALL:

27 (I) DESCRIBE THE NATURE AND EXTENT OF THE PROPOSED
28 REMOVAL OR REMEDIAL ACTION; AND

29 (II) ALLOW 30 DAYS FOR PUBLIC COMMENT.

30 (3) THE DEPARTMENT:

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

33 (II) SHALL HOLD A PUBLIC ~~HEARING~~ INFORMATIONAL MEETING
34 ON THE PROPOSED VOLUNTARY RESPONSE ACTION PLAN ~~WHEN~~ IF AT LEAST 5
35 RESIDENTS FROM SEPARATE HOUSEHOLDS IN COMMUNITIES ADJACENT TO THE
36 SITE AND POTENTIALLY AFFECTED BY THE REMOVAL OR REMEDIAL ACTION
37 PROPOSED AT THE SITE FILE A WRITTEN REQUEST FOR A PUBLIC ~~HEARING IS MADE~~
38 INFORMATIONAL MEETING WITHIN 20 DAYS AFTER PUBLICATION OF THE NOTICE.

19

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

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

8 (I) APPROVE THE PROPOSED VOLUNTARY RESPONSE ACTION
9 PLAN;

10 (II) MODIFY AND APPROVE THE PROPOSED VOLUNTARY
11 RESPONSE ACTION PLAN; OR

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

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

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

21 (2) THE VOLUNTARY REMEDIATION AGREEMENT SHALL, AT A
22 MINIMUM:

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

25 (II) STATE THE CLEANUP STANDARDS THAT SHALL BE ACHIEVED;
26 AND

27 (III) CONTAIN ANY OTHER PROVISIONS THAT THE DEPARTMENT
28 DETERMINES TO BE NECESSARY TO PROTECT PUBLIC HEALTH, THE ENVIRONMENT,
29 OR THE INTERESTS OF THE STATE, OR TO ENHANCE THE EFFICIENT OPERATION OF
30 THE PROGRAM.

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

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

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

20

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

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

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

9 (3) ~~(I) A PERSON WHO RECEIVES A LETTER OF NO FURTHER ACTION~~
10 ~~UNDER THIS SUBSECTION SHALL ATTACH A COPY OF THE LETTER TO THE~~
11 ~~RECORDED DEED THAT CONCERNS THE PROPERTY ON RECORD THE LETTER IN THE~~
12 LAND RECORDS OF THE LOCAL JURISDICTION IN WHICH THE VOLUNTARY
13 RESPONSE ACTION PLAN WAS IMPLEMENTED.

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

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

19 ~~(I) SUBSEQUENT DATA INDICATES THAT THE IMPLEMENTATION~~
20 ~~OF THE VOLUNTARY RESPONSE ACTION PLAN FAILED TO PROTECT THE PUBLIC~~
21 ~~HEALTH OR WELFARE THERE IS AN IMMINENT OR SUBSTANTIAL THREAT TO PUBLIC~~
22 HEALTH OR THE ENVIRONMENT;

23 (II) THE LETTER OF NO FURTHER ACTION WAS OBTAINED
24 THROUGH FRAUD OR MATERIAL MISREPRESENTATION IS SUBSEQUENTLY
25 DISCOVERED IN THE APPLICATION OR THE VOLUNTARY RESPONSE ACTION PLAN;
26 OR;

27 (III) FURTHER NEW CONTAMINATION IS DISCOVERED FOUND;

28 (IV) PREVIOUSLY UNDISCOVERED CONTAMINATION IS FOUND;

29 (V) THE ELIGIBLE SITE FAILS TO MEET THE APPLICABLE CLEANUP
30 CRITERIA SET FORTH IN THE RESPONSE ACTION PLAN APPROVED BY THE
31 DEPARTMENT;

32 (VI) THE PERSON DOES NOT COMPLY WITH CONDITIONS ON THE
33 PERMISSIBLE USES OF THE PROPERTY; OR

34 (VII) THE LONG-TERM OPERATION AND MAINTENANCE SET FORTH
35 IN THE APPROVED RESPONSE ACTION PLAN HAS NOT BEEN PERFORMED.

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

21

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

3 7-223.3.

4 (A) THERE IS A BROWNFIELDS REVITALIZATION AND VOLUNTARY
5 REMEDIATION FUND.

6 (B) ALL APPLICATION FEES AND OTHER MONEYS COLLECTED BY THE
7 DEPARTMENT IN CONNECTION WITH THE BROWNFIELDS REVITALIZATION AND
8 VOLUNTARY REMEDIATION PROGRAMS UNDER §§ 7-223.1 AND 7-223.2 OF THIS
9 SUBTITLE SHALL BE PAID TO THE FUND.

10 (C) ALL MONEYS APPROPRIATED, GRANTED, LOANED, OR OTHERWISE
11 PROVIDED TO THE DEPARTMENT FOR THE SUPPORT OF THE BROWNFIELDS
12 REVITALIZATION AND VOLUNTARY REMEDIATION PROGRAMS SHALL BE PAID TO
13 THE FUND.

14 (D) THE DEPARTMENT SHALL USE THE MONEYS IN THE FUND FOR:

15 (1) ALL COSTS ASSOCIATED WITH THE ADMINISTRATION OF THE
16 PROGRAMS;

17 (2) THE DEVELOPMENT AND IMPLEMENTATION OF THE PROGRAMS;

18 (3) LEGAL EXPENSES; AND

19 (4) OTHER INDIRECT AND DIRECT COSTS ASSOCIATED WITH THE
20 INVESTIGATION, CLEANUP, AND RELATED ACTIVITIES AT BROWNFIELDS
21 REVITALIZATION AND VOLUNTARY REMEDIATION PROJECTS THAT HAVE NOT
22 BEEN COMPLETED BY THE APPLICANT.

23 **Article - Tax - Property**

24 9-227.

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

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

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

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

33 AND

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

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

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