
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2826 Session of
2022

INTRODUCED BY TOMLINSON, HENNESSEY, RYAN, THOMAS, HELM, GILLEN
AND FARRY, SEPTEMBER 16, 2022

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
SEPTEMBER 16, 2022

AN ACT

1 Amending the act of May 19, 1995 (P.L.4, No.2), entitled "An act
2 providing for the recycling of existing industrial and
3 commercial sites; further defining the cleanup liability of
4 new industries and tenants; establishing a framework for
5 setting environmental remediation standards; establishing the
6 Voluntary Cleanup Loan Fund, the Industrial Land Recycling
7 Fund and the Industrial Sites Cleanup Fund to aid industrial
8 site cleanups; assigning powers and duties to the
9 Environmental Quality Board and the Department of
10 Environmental Resources; and making repeals," in Industrial
11 Land Recycling Fund, further providing for Industrial Land
12 Recycling Fund and for Industrial Sites Cleanup Fund; making
13 a related repeal; and making editorial changes.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The title of the act of May 19, 1995 (P.L.4,
17 No.2), known as the Land Recycling and Environmental Remediation
18 Standards Act, is amended to read:

19 AN ACT

20 Providing for the recycling of existing industrial and
21 commercial sites; further defining the cleanup liability of
22 new industries and tenants; establishing a framework for
23 setting environmental remediation standards; establishing the

1 Voluntary Cleanup Loan Fund, the Industrial Land Recycling
2 Fund and the Industrial Sites [Cleanup] Reuse Fund to aid
3 industrial site cleanups; assigning powers and duties to the
4 Environmental Quality Board and the Department of
5 Environmental [Resources] Protection; and making repeals.

6 Section 2. Section 102(2) and (8) of the act are amended to
7 read:

8 Section 102. Declaration of policy.

9 The General Assembly finds and declares as follows:

10 * * *

11 (2) Incentives should be put in place to encourage
12 responsible persons to voluntarily develop and implement
13 cleanup plans without the use of taxpayer funds or the need
14 for adversarial enforcement actions by the Department of
15 Environmental [Resources] Protection which frequently only
16 serve to delay cleanups and increase their cost.

17 * * *

18 (8) The Department of Environmental [Resources]
19 Protection now routinely through its permitting policies
20 determines when contamination will and will not pose a
21 significant risk to public health or the environment. Similar
22 concepts should be used in establishing cleanup policies.

23 * * *

24 Section 3. The definitions of "department," "point of
25 compliance," "release" and "secretary" in section 103 of the act
26 are amended to read:

27 Section 103. Definitions.

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

1 * * *

2 "Department." The Department of Environmental [Resources]
3 Protection of the Commonwealth or its successor agency.

4 * * *

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

10 * * *

11 "Release." Spilling, leaking, pumping, pouring, emitting,
12 emptying, discharging, injecting, escaping, leaching, dumping or
13 disposing of a regulated substance into the environment in a
14 manner not authorized by the Department of Environmental
15 [Resources] Protection. The term includes the abandonment or
16 discarding of barrels, containers, vessels and other receptacles
17 containing a regulated substance.

18 * * *

19 "Secretary." The Secretary of Environmental [Resources]
20 Protection of the Commonwealth.

21 * * *

22 Section 4. Sections 302(b)(1), 303(e)(1), 304(k)(2), 305(a),
23 701(a) and 702 of the act are amended to read:

24 Section 302. Background standard.

25 * * *

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

29 (1) Attainment of the background standard shall be
30 demonstrated by collection and analysis of representative

1 samples from environmental media of concern, including soils
2 and groundwater in aquifers in the area where the
3 contamination occurs through the application of statistical
4 tests set forth in regulation or, if no regulations have been
5 adopted, in a demonstration of a mathematically valid
6 application of statistical tests. The [Department of
7 Environmental Resources] department shall also recognize
8 those methods of attainment demonstration generally
9 recognized as appropriate for that particular remediation.

10 * * *

11 Section 303. Statewide health standard.

12 * * *

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

16 (1) Attainment of cleanup levels shall be demonstrated
17 by collection and analysis of representative samples from the
18 environmental medium of concern, including soils, and
19 groundwater in aquifers at the point of compliance through
20 the application of statistical tests set forth in regulation
21 or, if no regulations have been adopted, in a demonstration
22 of a mathematically valid application of statistical tests.
23 The [Department of Environmental Resources] department shall
24 also recognize those methods of attainment demonstration
25 generally recognized as appropriate for that particular
26 remediation.

27 * * *

28 Section 304. Site-specific standard.

29 * * *

30 (k) Attainment.--Compliance with the site-specific standard

1 is attained for a site or portion of a site when a remedy
2 approved by the department has been implemented in compliance
3 with the following criteria:

4 * * *

5 (2) Attainment of the site-specific standard shall be
6 demonstrated by collection and analysis of samples from
7 affected media, as applicable, such as surface water, soil,
8 groundwater in aquifers at the point of compliance through
9 the application of statistical tests set forth in regulation
10 or, if no regulations have been adopted, in a demonstration
11 of a mathematically valid application of statistical tests.
12 The [Department of Environmental Resources] department shall
13 also recognize those methods of attainment demonstration
14 generally recognized as appropriate for that particular
15 remediation.

16 * * *

17 Section 305. Special industrial areas.

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

28 * * *

29 Section 701. Industrial Land Recycling Fund.

30 (a) Fund.--There is hereby established a [separate]

1 restricted account in the [State Treasury] General Fund, to be
2 known as the Industrial Land Recycling Fund, which shall be [a
3 special fund] administered by the department.

4 * * *

5 Section 702. Industrial Sites [Cleanup] Reuse Fund.

6 (a) Establishment.--There is hereby established a [separate
7 account] special fund in the State Treasury, to be known as the
8 Industrial Sites [Cleanup] Reuse Fund, which shall be [a special
9 fund] administered by the Department of [Commerce. Within 60
10 days of the effective date of this act, the Department of
11 Commerce shall finalize] Community and Economic Development. The
12 Department of Community and Economic Development shall publish
13 guidelines and issue application forms to administer this fund.

14 (b) Purpose.--The Industrial Sites [Cleanup] Reuse Fund is
15 to provide financial assistance to persons who did not cause or
16 contribute to the contamination on property used for industrial
17 activity on or before the effective date of this act and who
18 propose to undertake a voluntary cleanup or environmental
19 assessment of the property.

20 (b.1) Financial assistance.--The financial assistance under
21 this section shall be in [an amount of up to] the form of grants
22 and loans under this section. The sum of the financial
23 assistance under this section may not exceed 75% of the costs
24 incurred for completing an environmental [study] assessment and
25 implementing a cleanup plan by an eligible applicant. [Financial
26 assistance may be in the form of grants as provided in this
27 section or low-interest loans, to be lent at a rate not to
28 exceed 2%.]

29 (c) [Grants] Cleanup grants.--Grants for cleanup of a
30 property under this section may be made to political

1 subdivisions or their instrumentalities or local economic
2 development agencies for the purposes of this section if the
3 grantee owns the site on which the cleanup is being conducted
4 and the grantee is overseeing the cleanup. [The total amount of
5 grants awarded under this section in any one fiscal year shall
6 not exceed 20% of the total amount of the Industrial Sites
7 Cleanup Fund.]

8 (c.1) Assessment grants.--Grants to conduct an environmental
9 assessment of property under this section may be made to a
10 political subdivision or an instrumentality or local economic
11 development agency of a political subdivision.

12 (d) [Loans.--Loans meeting the requirements of subsection
13 (b) may be made to the following categories of applicants:

14 (1) Local economic development agencies.

15 (2) Political subdivisions or their instrumentalities.

16 (3) Other persons determined to be eligible by the

17 Department of Commerce.] Cleanup loans.--Loans for cleanup of
18 a property under this section may be made to political
19 subdivisions or an instrumentality or local economic
20 development agency of a political subdivision or other
21 persons determined to be eligible by the Department of
22 Community and Economic Development. The interest rate for a
23 cleanup loan under this subsection shall not exceed 2%.

24 (d.1) Assessment loans.--Loans to conduct an environmental
25 assessment of a property under this section may be made to
26 political subdivisions or an instrumentality or local economic
27 development agency of a political subdivision or other persons
28 determined to be eligible by the Department of Community and
29 Economic Development. The interest rate for an assessment loan
30 under this subsection shall not exceed 2%.

1 (d.2) Performance-based cleanup loans.--The following shall
2 apply:

3 (1) The Department of Community and Economic Development
4 may make performance-based loans under this subsection to
5 applicants for projects related to remediation of any of the
6 following:

7 (i) Brownfield sites.

8 (ii) Nonhazardous waste or debris, including waste
9 tire recycling.

10 (2) Except as provided under paragraph (3), the interest
11 rate for a performance-based loan under this subsection shall
12 not exceed 2%.

13 (3) The Department of Community and Economic Development
14 may forgive all or a portion of a performance-based loan to
15 the extent that performance measures and other requirements
16 are accomplished by the loan recipient in accordance with the
17 loan agreement between the recipient and the Department of
18 Community and Economic Development.

19 (4) A performance-based loan shall only be available to
20 persons that did not cause or contribute to the contamination
21 on property used for industrial activity on or before March
22 17, 2000, and who propose to undertake a voluntary cleanup of
23 the property.

24 (5) The Department of Community and Economic Development
25 in cooperation with the department shall establish
26 performance measures for a performance-based loan under this
27 subsection, which shall include all of the following:

28 (i) Method to dispose of the waste or debris.

29 (ii) Number of jobs related to the disposal.

30 (iii) Resulting economic benefit to the

1 Commonwealth.

2 (iv) Any other measure which is relevant to the
3 environmental benefit of the proposed voluntary cleanup
4 of the property.

5 (6) Loans under this subsection shall be included in the
6 annual financing strategy of the department.

7 (e) Priority for financial assistance.--The Department of
8 [Commerce] Community and Economic Development shall take all of
9 the following factors into consideration when determining which
10 applicants shall receive financial assistance under this
11 section:

12 (1) The benefit of the remedy to public health, safety
13 and the environment.

14 (2) The permanence of the remedy.

15 (3) The cost effectiveness of the remedy in comparison
16 with other alternatives.

17 (4) The financial condition of the applicant.

18 (5) The financial or economic distress of the area in
19 which the cleanup is being conducted.

20 (6) The potential for economic development.

21 [The Department of Commerce shall consult with the department
22 when determining priorities for funding under this section.]

23 (e.1) Consultation.--The Department of Community and
24 Economic Development shall consult with the department when
25 determining priorities for funding under this section.

26 (f) Terms and conditions.--[The Department of Commerce]
27 Except as otherwise provided in this section, the Department of
28 Community and Economic Development shall have the power to set
29 terms and conditions applicable to loans and grants it deems
30 appropriate. The Department of [Commerce] Community and Economic

1 Development may consider such factors as it deems relevant,
2 including current market interest rates and the necessity to
3 maintain the moneys in this fund in a financially sound manner.
4 Loans may be made based upon the ability to repay from future
5 revenue to be derived from the cleanup, by a mortgage or other
6 collateral, or on any other fiscal matters which the Department
7 of [Commerce] Community and Economic Development deems
8 appropriate.

9 (g) Funds.--In addition to any funds appropriated by the
10 General Assembly, [\$15,000,000] \$17,000,000 per fiscal year
11 shall be transferred upon approval of the Governor from the
12 Hazardous Sites Cleanup Fund established by the act of October
13 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup
14 Act, to the Industrial Sites [Cleanup] Reuse Fund for the
15 purpose of implementing the program established in this section.
16 Moneys received by the Department of [Commerce] Community and
17 Economic Development as repayment of outstanding loans shall be
18 deposited in the fund. Any interest earned by moneys in this
19 fund shall remain in this fund. Moneys in the fund are hereby
20 appropriated to the Department of [Commerce] Community and
21 Economic Development for the purpose of implementing this
22 section.

23 (h) Annual report.--The Department of [Commerce] Community
24 and Economic Development shall on October 1 of each year report
25 to the General Assembly on the grants, loans, expenditures and
26 commitments made from this fund. The annual report shall include
27 an evaluation of the effectiveness of this fund in recycling
28 industrial and commercial sites. The evaluation shall include
29 any recommendations for additional changes if necessary to
30 improve the effectiveness of this fund in recycling such sites.

1 Section 5. Repeals are as follows:

2 (1) The General Assembly declares that the repeal under
3 paragraph (2) is necessary to effectuate the amendment of
4 section 702 of the act.

5 (2) The act of May 19, 1995 (P.L.43, No.4), known as the
6 Industrial Sites Environmental Assessment Act, is repealed.

7 Section 6. The amendment of section 702 of the act is a
8 continuation of the act of May 19, 1995 (P.L.43, No.4), known as
9 the Industrial Sites Environmental Assessment Act. Except as
10 otherwise provided in section 702 of the act, all activities
11 initiated under the Industrial Sites Environmental Assessment
12 Act shall continue and remain in full force and effect and may
13 be completed under section 702. Orders, regulations, rules and
14 decisions which were made under the Industrial Sites
15 Environmental Assessment Act and which are in effect on the
16 effective date of section 5(2) of this act shall remain in full
17 force and effect until revoked, vacated or modified under
18 section 702 of the act. Contracts, obligations and collective
19 bargaining agreements entered into under the Industrial Sites
20 Environmental Assessment Act are not affected nor impaired by
21 the repeal of the Industrial Sites Environmental Assessment Act.

22 Section 7. The Industrial Sites Environmental Assessment
23 Fund established in section 3 of the act of May 19, 1995
24 (P.L.43, No.4), known as the Industrial Sites Environmental
25 Assessment Act, is abolished. The following shall apply:

26 (1) Any money in the former Industrial Sites
27 Environmental Assessment Fund is transferred to the
28 Industrial Sites Reuse Fund.

29 (2) Any encumbrances or other legal obligations of the
30 former Industrial Sites Environmental Assessment Fund are

1 transferred to the Industrial Sites Reuse Fund.

2 (3) Any amounts due to be repaid to or which would
3 otherwise be returned to the former Industrial Sites
4 Environmental Assessment Fund shall be deposited into the
5 Industrial Sites Reuse Fund.

6 Section 8. This act shall take effect immediately.