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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO HEALTH AND SAFETY -- ENVIRONMENTAL JUSTICE FOCUS AREAS

Introduced By: Senators Mendes, DiMario, Calkin, and Valverde

Date Introduced: March 26, 2021

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 19.17

4 ENVIRONMENTAL JUSTICE FOCUS AREAS

5 **23-19.17-1. Legislative Findings.**

6 The general assembly hereby makes the following findings:

7 (1) Rising sea levels threaten thousands of Rhode Island coastal residents and millions of
8 dollars of coastal property with increased risk of flooding, storm damage, shoreline erosion,
9 saltwater intrusion, and wetland loss and the department of environmental management should take
10 into consideration the threat of rising sea levels when notifying the public and assessing hazardous
11 waste site remediation plans on coastal properties.

12 (2) Environmental justice is the fair treatment and meaningful involvement of all people
13 regardless of race, color, national origin, English language proficiency, or income with respect to
14 the development, implementation, and enforcement of environmental laws, regulations, and
15 policies. The department has established this goal for the review of the investigation and
16 remediation of properties with actual or suspected contamination in all communities and for all
17 persons across this state. That goal will be achieved when everyone enjoys a fair share of
18 environmental benefits and the same degree of protection from environmental and health hazards,
19 as well as equal access to the decision-making process to help ensure a healthy environment in

1 which to live, learn, and work.

2 (3) As properties are investigated and cleaned up, the department should promote public
3 participation based on the beliefs that individuals should have a timely, meaningful way to
4 participate in decisions that impact them, and that public participation in its best form is an ongoing,
5 two (2)-way process that benefits both the public and the agency.

6 **23-19.17-2. Definitions.**

7 As used in this chapter:

8 (1) "Coastal zone" has the same meaning as defined in the federal Coastal Zone
9 Management Act, 16 U.S.C. § 1453(1), and under the state regulatory jurisdiction of the coastal
10 resources management council pursuant to the provisions of chapter 23 of title 46.

11 (2) "Environmental justice focus areas" means areas defined by United States Census block
12 groups that are in the highest fifteen percent (15%) of all Census block groups in Rhode Island with
13 respect to the percent population identified as racial minorities or the highest fifteen percent (15%)
14 of Rhode Island Census block groups with respect to percent population with income identified as
15 being twice the federal poverty level or below (utilizing the most recent and readily available data
16 from the United States Census Bureau).

17 (3) "Performing party" or "parties" means any bona fide prospective purchaser, responsible
18 party, voluntary party or any other party (or parties) conducting an investigation of and/or
19 remediation at a contaminated site.

20 **23-19.17-3. Contaminated site investigation.**

21 (a) Whenever the director of the department of environmental management requires site
22 investigation for any contaminated site located in an environmental justice focus area or in coastal
23 zones, the performing party shall:

24 (1) Post signs to inform local residents about the project. When deemed appropriate signs
25 will be required to be posted in a language (or languages) other than English. Signs shall be at least
26 four feet (4') by six feet (6') in size; posted for at least thirty (30) days minimum and from a date
27 one week prior to the initiation of field work for the site investigation to a date at least one week
28 following the issuance of either an interim letter of compliance or letter of compliance or other
29 official communication from the department that no further action is necessary, or for a twelve (12)
30 month maximum period, which shall be maintained in legible condition by the performing party;
31 clearly visible from the nearest public highway/road; and include the name/phone number/address
32 of an individual from whom any interested person may obtain information about the site or
33 remediation and any website address containing such information.

34 (2) Provide public notice at two (2) points during the site investigation.

1 (i) Prior to conducting site investigation field activities at a known contaminated site, the
2 performing party shall notify all property owners, tenants, easement holders within two thousand
3 five hundred feet (2500') of the site and the municipality that investigation activities are about to
4 occur.

5 (ii) When the site investigation is deemed complete, the department will issue a program
6 letter confirming that the performing party has adequately assessed the nature and extent of
7 contamination at the contaminated site. Prior to the formal department approval of the site
8 investigation report (in the form of a remedial decision letter), the performing party shall notify all
9 abutting property owners, tenants, easement holders, the municipality, and any community well
10 suppliers associated with any well head protection areas which encircle the contaminated site, that
11 the investigation is complete and provide them with the findings of the investigation and any
12 proposed remedial alternative which includes on-site treatment and/or containment of hazardous
13 materials as part of the final remedy.

14 (iii) Whenever a site that is known to be contaminated or is suspected of being
15 contaminated based upon its past use is considered for possible reuse as the location of a school,
16 child care facility, or as a recreational facility for public use that supports existing or proposed
17 active recreation, the person proposing such reuse shall, prior to the establishment of a final scope
18 of investigation for the site and after the completion of all appropriate inquiries, hold a public
19 meeting for the purposes of obtaining information about conditions at the site and the
20 environmental history at the site that may be useful in establishing the scope of the investigation of
21 the site and/or establishing the objectives for the environmental clean-up of the site. The public
22 meeting shall be held in the city or town in which the site is located; public notice shall be given of
23 the meeting at least ten (10) business days prior to the meeting; public notice of the meeting shall
24 be provided to all abutting property owners, tenants, easement holders and the municipality; the
25 public meeting shall be conducted in a manner consistent with the requirements contained in § 23-
26 19.17-5 regarding community meetings; and following the meeting, the record of the meeting shall
27 be open for a period of not less than ten (10) and not more than twenty (20) business days for the
28 receipt of public comment. The results of all appropriate inquiries, analysis and the public meeting,
29 including the comment period, shall be documented in a written report submitted to the department
30 in both hard copy and electronic format (as specified by the department) within seventy two (72)
31 hours of the meeting.

32 (iv) No work (remediation or construction) shall be permitted at the property until the
33 public meeting and comment period regarding the site's proposed reuse has closed except where
34 the director determines that such work is necessary to mitigate or prevent:

1 (A) An imminent threat to human health, public safety or the environment; or

2 (B) Off-site migration of known or suspected contamination.

3 (v) The public notice, meeting and comment period required by this section shall be in
4 addition to any other requirements for public notice and comment relating to the investigation or
5 remedy of the site and may be made part of another meeting pertaining to the site; provided, that
6 the minimum standards established by this section for notice and comment are met. Any
7 investigation or remediation undertaken prior to the completion of the public comment period shall
8 be limited to measures necessary to define and/or mitigate the imminent threat and/or off-site
9 migration.

10 **23-19.17-4. Fact sheets and enhanced communication.**

11 For contaminated sites located in environmental justice focus areas, or in coastal zones, the
12 performing party shall prepare a site-specific fact sheet presenting the known history of the site,
13 the suspected contamination (based on both historical uses and existing environmental
14 information), the point in the process where the contaminated site is and the expected path moving
15 forward, and the department's contact information for the site. Draft fact sheets shall be submitted
16 to the department in both hard copy and electronic format (as specified by the department) along
17 with a proposed communications plan on how to effectively disseminate the information in the
18 community around the contaminated site. These materials shall be submitted to the department
19 prior to the commencement of the public notice specified in § 23-19.17-3. Information to be
20 provided to the community shall include, at a minimum, the final approved site-specific fact sheet
21 and informational materials about the department and the department's site remediation and
22 brownfields program, which will be provided by the department. When appropriate, such materials
23 will be required to be provided in a language (or languages) other than English. After review and
24 approval, the performing party shall implement the communications plan.

25 **23-19.17-5. Community meetings.**

26 (1) Whenever requested by fifteen (15) persons, or by a governmental subdivision or
27 agency, or by an association having not less than fifteen (15) members, who are either located near
28 a contaminated site or are potential users of the contaminated site after redevelopment, an initial
29 community meeting will be held. The request for said community meeting shall be submitted in
30 writing to the performing party and the department. The purpose of the meeting is to:

31 (i) Disseminate information about the department's site remediation program and the
32 specific contaminated site of interest;

33 (ii) Document community comments and concerns about the investigation, clean-up, and
34 reuse of the contaminated site; and

1 (iii) Engage in a dialogue with the public about the contaminated site.
2 (2) Community meetings will be organized by the performing party and will be accessible
3 to all participants who wish to attend (considering public transportation and access for the disabled).
4 All meetings will be held at a time and place convenient to all participants. An atmosphere of
5 "equal participation" among all involved should be established – avoiding panels, head tables, or
6 auditorium presentations. Translation assistance for non-English speakers shall be provided by the
7 performing party when appropriate.

8 (3) A written summary of all public meetings must be submitted to the department in both
9 hard copy and electronic format (as specified by the department) by the performing party within
10 seventy two (72) hours of the meeting. At a minimum, the written meeting summary must:

11 (i) Identify the main issues of concern to the community, including efforts at the meeting
12 to draw out local knowledge about the contaminated site, concerns about the investigation and
13 clean-up, and any concerns about the reuse plan;

14 (ii) Document requests by the community for a continued dialog, including the requested
15 form and frequency; and

16 (iii) Formulate a proposed response to the issues raised through specific, clear action items
17 and schedules.

18 **23-19.17-6. Public involvement plans.**

19 The performing party shall develop, and submit to the department for review and approval
20 in both hard copy and electronic format (as specified by the department), a site-specific public
21 involvement plan for any contaminated site for which the department has received a notification of
22 release and for which a minimum of fifteen (15) residents, local officials or other interested parties
23 have requested, in writing and in the form of a petition, that a formal process be set up for their
24 participation in cleanup planning. The public involvement plan shall address all relevant and
25 applicable requirements contained in §§ 23-19.17-3, 23-19.17-4 and 23-19.17-5.

26 **23-19.17-7. Release of public comments responses.**

27 Within ninety (90) days of submission of the completed site investigation, the responses
28 by the performing party to substantive public comments shall be made public upon request.

29 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- ENVIRONMENTAL JUSTICE FOCUS AREAS

1 This act would establish environmental justice focus areas and coastal zones and establish
2 procedures for the investigation and remediation of contaminated sites within the coastal zones
3 under the direction of the department of environmental management (DEM) with increased
4 community participation.

5 This act would take effect upon passage.

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