

**Department of Environmental Protection  
Land Recycling Program  
Enhancements Report**

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## **Table of Contents**

### Report of Land Recycling Program Enhancements

#### Appendices

1. Enhanced Management Process for Community Revitalization Directive
2. Detailed Review of Program Enhancements
3. Focus Group Sessions
  - Economic Development Agencies and Private Developers
  - Environmental Consultants
  - Lending Community
  - Legal Community
  - Local Government Representatives
  - DEP Environmental Cleanup Program Staff
4. Brownfield Action Team in Pennsylvania
5. Workgroups Participants
6. Revised NIR Form, NIR Acknowledgement Letter and Project Management Guidance
7. Checklist
8. Superfund Report on Voluntary Program Fees

## **Report of Land Recycling Program Enhancements**

Prior to the Land Recycling Program, the general business consensus in the Commonwealth was to abandon brownfields, rather than put them back into productive use. A by-product of this way of thinking was the loss of open space as businesses looked to greenspace and farmland to build their facilities.

Pennsylvania reversed this trend with the tools provided by the Land Recycling and Environmental Remediation Standards Act (Act 2 of 1995), the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act (Act 3 of 1995) and the Industrial Sites Assessment Act (Act 4 of 1995). Collectively, these Acts make up the Pennsylvania Land Recycling Program. The Land Recycling Program was and is supported by a broad bipartisan coalition of lawmakers in the General Assembly.

Today, the Pennsylvania Land Recycling Program's award-winning approach is a national model for use in transforming abandoned, idle properties into economic opportunities. Tens of thousands of jobs have been created or retained because of the business opportunities that have been recognized and realized in Pennsylvania.

The success of Pennsylvania's Land Recycling Program rests on four cornerstones. These cornerstones — uniform cleanup standards, liability relief from future cleanup requirements under state environmental statutes, standardized reviews and time limits, and development authority, lender and fiduciary liability protection and financial assistance — pave the way for redevelopment projects.

A comprehensive assessment of the Land Recycling Program was conducted in 2003 to expedite the cleanup and redevelopment of the next generation of brownfields. Secretary Kathleen A. McGinty conducted several intensive focus group discussions to gather information from brownfield stakeholders on possible improvements and enhancements to the Program. Following this issue identification, a series of workgroups were organized to address several ideas and concerns raised by stakeholders. These workgroups, comprised of both DEP staff and focus group representatives, developed recommendations for implementing and addressing issues identified through the focus group process.

A number of actions will be implemented to increase public and stakeholder awareness of the Land Recycling Program enhancements. This report and a policy directive issued by Secretary McGinty will be posted on the Land Recycling Program website. The administrative and legislative recommendations of this report and a description of the process for enlisting the help of the Brownfields Action Team will be available as abstracts. This information will be provided to municipal and county officials, local and county planners, and economic development specialists. Workshops are being planned for community leaders and brownfield stakeholders to share information on the new program initiatives and the economic incentives designed to stimulate community revitalization efforts. Meetings are scheduled with associations

representing the interests of cities, townships, boroughs, economic development agencies and business and industry to review the new program direction.

Secretary McGinty has directed that the following actions be taken to build on and improve the brownfields program. Most items derive from the suggestions and proposals of the focus groups and workgroups. This executive summary is provided to give the reader a brief overview; detailed descriptions of most of the action items can be found in the body of the report.

### **Administrative Action Items**

- (1) **Outreach and Coordination of Local Government Efforts:** The need for increased outreach to brownfield stakeholders, especially local government entities, was raised by several focus groups and addressed in one of the DEP workgroups. A number of recommendations were made and some have already been initiated. Regional staff has started working with local economic development and redevelopment authorities to develop task forces to facilitate brownfield redevelopment. The Southeast and Northeast Regional Office have been participating in established task forces for several years, but their efforts are now being transplanted to the other Regions. A new DEP Office of Community Revitalization and Local Government Support (OCRLGS) is charged with coordinating economic development and brownfield redevelopment activities. This new Office under the direction of Eugene DePasquale is establishing staff positions within each DEP Regional Office dedicated specifically to community revitalization activities and functions. Land Recycling Program staff in both the Central and Regional Office are working with this new Deputate to conduct activities like regional roundtables with local government leaders to promote the reuse of abandoned and underutilized properties. The functions of the Assistant Regional Directors and Local Government Liaisons in each Regional Office have been broadened to aid in the facilitation of brownfield transactions. A new position, the Community Revitalization Executive (CRE) within the OCRLGS, has been created and charged with expediting the cleanup and permits required to redevelop brownfield properties. (See Appendix 1 for the new policy directive issued by Secretary McGinty in this regard). Assistance under the Subtitle C section of the new federal brownfields law will support this team. DEP is meeting on a regular basis with the Governor's Office, DCED and PennDOT to discuss brownfield and economic development issues. This practice will expand to include other state agencies and entities with an interest in brownfield redevelopment. Finally, monthly conference calls discussing the management of specific projects and outreach activities are being conducted between the executive program manager, Assistant Regional Directors (ARD) and Environmental Cleanup Program (ECP) managers.
- (2) **“Mothballed” Properties:** Many owners are reluctant to offer for sale or initiate the remediation of properties with potential environmental liabilities. Rather than face the ramifications of disclosing contamination liabilities, owners of contaminated properties often “mothball” or simply abandon them. This practice is

contrary to community efforts to redevelop and revitalize. DEP has begun working with local governments to identify properties critical to community revitalization efforts. In consultation with local officials, DEP staff will initiate enforcement action to require assessment and remediation work. At any point in the process, the owner may choose to enter the Land Recycling Program. If the landowner chooses to do so and demonstrates continued, timely progress in completing remediation obligations, the liability and other related benefits of Act 2 will be available to the landowner.

- (3) **Memorandum of Agreement (MOA) with EPA:** Although the liability protection provided to properties successfully remediated under Act 2 is far reaching at the state level, there continues to be concern about liability that still may exist under federal programs. Specifically, the federal Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Toxic Substance Control Act (TSCA) programs may apply to sites subject to Act 2. DEP staff is currently negotiating a “One Cleanup Program” MOA with EPA Region 3 that will prescribe coordinated remedial actions under CERCLA, RCRA and TSCA by participants in the Land Recycling Program. The MOA is expected to be executed in early 2004.
- (4) **Applicability of Act 2 to Responsible Parties:** The opportunity to resolve environmental liabilities through the Act 2 process is available to owners of property with active operations, as well as abandoned properties. While DEP will take enforcement action against any company or owner who is endangering the public health and environment, Act 2 and its associated liability protections is available to any owner diligently remediating a site pursuant to Act 2. The Program staff will work with DEP’s Office of Chief Counsel to develop standardized procedures for reporting releases and for delineating what constitutes diligence in this regard. This effort will provide: clarification of the Clean Stream Law reporting requirements, civil penalty policies enacted by other DEP programs, and clearly identify conditions that will necessitate enforcement action. It is important to note that inappropriate use of Act 2 by a responsible party as a delaying tactic or a shield against taking responsible remediation action will not be tolerated, and instead will invite vigorous enforcement actions. The policy will be drafted by May 2004.
- (5) **“Best Management Practices” for Low-Risk Properties:** Because a number of groups indicated that many properties are remediated privately and outside the formal Act 2 process, DEP will implement a new process to encourage these properties to participate in the state-managed remediation process. The objectives of the new procedures include:
  - a. Encouraging increased voluntary participation in the Act 2 process for low-risk sites.
  - b. Expediting project development and the reuse of these sites.

- c. Reducing a remediator's time and cost for interacting with DEP personnel. These costs and timing issues include the uncertainties associated with DEP concurrence when applying professional judgment with respect to data analysis and report preparation.
- d. Reducing technical reviews by DEP personnel when state-licensed environmental professionals certify remediation plans at low-risk sites. In all instances, of course, final determination of compliance with Act 2 is reserved to DEP personnel. This has the benefit of reducing time and cost both to the applicant as well as DEP personnel who will then be free to concentrate on complex remediations.

A draft policy developed as a result of this recommendation is located in the body of this report. It includes language stating that sites which meet DEP criteria may be approved based on the seal of a state-licensed environmental professional, e.g. – Professional Geologist (P.G.). Implementation of this new policy should occur early in 2004.

(6) **Notice of Intent to Remediate (NIR) Form and Acknowledgement Letter**

**Changes:** The NIR form and acknowledgement letter have been revised to incorporate suggestions from several workgroups. The objectives of the changes are:

- a. Ensuring that the NIR form includes the information required in the regulations. Additional text has been added over the life of the program, and the workgroups suggested that the form reflect what was originally required at the inception of the Act 2 process.
- b. Reevaluating the complexity of the language. Municipalities and the general public are given the opportunity to examine the NIR, but often do not comprehend its intent. Plainer language will help interested individuals or groups understand the remediator's objectives.
- c. Inclusion of language that instructs the remediator to make sure the property is remediated consistent with local zoning for anticipated future development.
- d. Including recommendations that the regulated community meet early and often with DEP staff as they proceed through project redevelopment. This communication will reduce the likelihood that surprises will turn up for either side upon project completion.

The revised NIR form, proposed acknowledgement letter and project management guidance may be found in Appendix 6. Approval and implementation of these changes will be implemented in early 2004.

(7) **Program Consistency:** Issues related to differences in professional judgment exercised in implementing the Land Recycling Program were raised during the focus group sessions. The following are procedures that should clarify expectations and minimize differences in judgement.

- a. A Question and Answer (Q&A) section has been established on the Voluntary Cleanup and Standards web page ([www.dep.state.pa.us](http://www.dep.state.pa.us), DEP Keyword “land recycling”, Voluntary Cleanup and Standards link). Using this form of communication ensures that DEP field staff and the regulated community receive the same guidance on issues being raised, allowing for field office comment and final implementation in a timely manner. The following process is now being implemented:
  - i. Questions which are posed to the central program staff, both from the regulated community and the DEP field offices, are responded to and recorded for review by Central and Field Office staff.
  - ii. The questions and responses are reviewed with regional staff during monthly teleconferences.
  - iii. As necessary the responses are modified, approved by the program and posted to the website for public and staff referral.
- b. A Q&A section is being developed to address less technical issues, e.g. financial assistance, new programs and initiatives, and basic program information. This resource is being designed for economic development and redevelopment authorities, lenders, realtors and other stakeholders interested in transaction support matters.
- c. Central Office staff is developing a training session that they will conduct in each Regional Office for DEP staff. The training will be formatted in a manner similar to the Client Workshops offered to the regulated community. This item is being undertaken to help address the implementation discrepancies between regions identified during the focus groups. Training will be offered to DEP field staff in each regional office in March 2004.
- d. New procedures for approving and identifying substantive deficiencies in final report submissions have been developed based on recommendations offered by a DEP workgroup. These procedures will include issuing one letter of deficiency as early in the review process as possible, and a shortened timeframe for re-reviewing the corrected deficiencies. Only one resubmission may be made without fees to address deficiencies. If the final report is still incomplete, a new submission with fees must be made. The details of this procedure are outlined in the body of the report.
- e. Guidance for project management has been developed to assist DEP staff in the review of redevelopment projects. This procedure will include, but not be limited to, milestones and occasions when written communication may be necessary. The project management guidance for the department may be found in Appendix 6.
- f. Facilitation of project completion will be managed to ensure a minimal amount of differences between DEP and the regulated community. The procedures are outlined in the body of the report.

- (8) **Industrial Sites Reuse Program Criteria Changes:** DEP is collaborating with DCED to reevaluate the criteria for awarding ISRP funding. The new standards

include requiring participation in the Act 2 process in order to secure funding for remediation, and requesting sponsorship from local redevelopment or economic development agencies. Agreed to procedures will be outlined in a letter of agreement signed by the Secretaries of DEP and DCED. An agreement is expected during 2004.

- (9) **Clean Fill:** At the urging of both development and environmental interest, and at the formal request of DEP, the EQB withdrew the proposed safe fill regulatory package in December 2003. DEP instead is revising the 1996 clean fill policy and proposing a new general permit for the beneficial use of contaminated material which is defined as “regulated fill”. The policy does not govern fill materials moved onsite as part of a remediation project, and only applies to fill moved off property.

The proposed revisions to the Clean Fill Policy and the proposed general permit are currently being finalized based on the comments received during the 60-day public comment period, which closed on January 9, 2004.

### **Legislative Action Items**

- (1) **Hazardous Sites Cleanup Fund:** In the Governor’s proposed budget, as announced on February 3, 2004, the Hazardous Sites Cleanup Fund has been identified as a priority funding issue and a plan has been devised for revitalizing funding. Action is urgently needed since the brownfields program otherwise will be bankrupt in the 2004-04 fiscal year. The primary source of funding proposed by Governor Rendell would come from a toxic emissions fee of 15 cents per pound, expected to raise \$20 million a year. The remainder of funding would come from transfer of revenue from additional fees proposed by Governor Rendell to fund a broader “Growing Greener II” initiative.

Hundreds of contaminated sites have been cleaned up and are currently being remediated under this program. This fund also serves as the primary source of funding for the Resource Conservation and Recovery Act (RCRA) hazardous waste program, brownfields redevelopment, emergency response activities, the Land Recycling Program and other DEP priority programs. Among the actions taken by the General Assembly to balance the budget two years ago was the diversion of the Capital Stock and Franchise Tax (CSFT) from the HSCF to the General Fund. If the expected balance of the fund falls below \$5 million, the Governor is authorized to transfer an amount equal to one-quarter mill (approximately \$30million) of the CSFT from the General Fund to the HSCF. Although this “trigger” is expected to occur in FY 04/05, there is no expected support for the transfer because of the significant impact on the General Fund. Further, it only represents less than two-thirds of the funding needed on an annual basis to sustain the program. DEP’s top priority is to pursue a long-term, dedicated funding source for the program.

- (2) **Institutional and Engineering Controls:** The Department has developed draft regulatory language to clarify the need for deed acknowledgements for residential SHS cleanups where contamination remains in areas interior to the property boundary above standards, and properties affected by releases from regulated underground storage tanks where concentrations exceed residential SHS. This language will appear in a proposed amendment to Chapter 250, and will be presented to the Secretary for approval in December 2004. In addition, legislative changes are being written to require the registration of engineering controls with the PA One Call system. Representative Carol Rubley (District 157) has also introduced legislation (HB 2226) to authorize provisions of the Uniform Environmental Covenants Act to strengthen our capabilities to enforce environmental covenants. DEP is supportive of this legislation with some minor modifications and looks forward to working with Representative Rubley in this regard.
- (3) **Grayfields:** With the passage of the federal brownfields law, the Small Business Liability Relief and Brownfields Revitalization Act, the definition of brownfield properties was expanded to include mine-scarred lands. Abandoned mine lands (AMLs) historically have not been eligible for funding under Act 2 or for related tax incentives available at the federal level. The Department will initiate a program to apply land recycling procedures to AMLs. DEP hopes to identify a subset of AMLs that are well positioned (close to resources and infrastructure) for redevelopment. Monies may be leveraged for AML reuse from the federal Office of Surface Mining under the Surface Mining Control and Reclamation Act (SMCRA), and the Industrial Sites Reuse Fund administered by DCED. Legislation is being drafted to promote an AML reuse program, and to ensure the protection of water rights by reusers relying upon mining-affected waters for their operational needs.
- (4) **Legislative Changes to Act 2:** The focus groups and workgroups suggested changes to the Act 2 process that will require legislative action. The following is a list of these recommendations:
- a. Since the inception of the Land Recycling Program, the program fees have not been reviewed on a cost for service basis. After an analysis of the time spent on the review of final reports and other report submissions, it has been determined that an increase of the fees for the review of voluntary cleanup program submissions from \$250 to \$2,500 is justified. (See Appendix 8 for comparison of other state programs).
  - b. The Department will collaborate with DCED and explore the implications and benefits of modifying Section 702(c) of Act 2 to increase the percentage of the balance of the Industrial Sites Reuse Fund that may be available as grants. Currently, only 20% of the fund balance is allocated as grants. More than \$63 million has been disbursed from the fund, and roughly \$17.5 million in the form of low interest loans. The Department will also investigate circumstances under which grant monies may be

made available to private entities to further leverage the investment of private capital in brownfield projects.

- c. DCED has been reducing the number of areas designated as enterprise zones since 1999. Act 2 provides the incentive for Special Industrial Area (SIA) cleanups to occur on properties without financially viable owners or in Enterprise Zones. A legal interpretation also has provided the same opportunity within Keystone Opportunity Zones (KOZs). A policy agreement currently exists between DEP and DCED, to extend the eligibility of a purchaser of property to conduct a SIA cleanup within an area delisted as an enterprise zone for a period of five years, with opportunities for five year extensions. DEP will collaborate with DCED in drafting an amendment to allow SIA cleanups within selected delisted and current Enterprise Zones and within established KOZs.

- (5) **Solid Waste Management Act Interface:** One of the most challenging issues since the inception of the Land Recycling Program has been the interface of the voluntary remediation process with the waste management program. The Act 2 Technical Guidance Manual (TGM) has by policy established operating principles for voluntarily managing waste encountered as part of a cleanup under the Act 2 process. Either statutory or regulatory language will be explored to provide certainty in managing waste in conjunction with voluntary cleanup projects. This language would address (1) authorizations under approved cleanup plans to move waste onsite, (2) authorizations under approved cleanup plans beneficially to manage waste encountered onsite as part of property redevelopment, and (3) sanction pathway elimination procedures as acceptable for both the management of waste as well as contaminated media encountered, and acceptable for liability protection under Act 2. In many circumstances, residual wastes may be used as structural fill for building or parking facility construction.

**COMMONWEALTH OF PENNSYLVANIA**  
**Department of Environmental Protection**  
**Secretary**

717-787-2814

**Subject:** Enhanced Management Process for Community Revitalization

**To:** DEP Staff

**From:** Kathleen A. McGinty  
Secretary

From my very first communications with agency staff, I have articulated my personal commitment to make environmental protection a driver of economic growth here in our Commonwealth. To further that promise, I am proposing a new approach to the management of reclamation, remediation and redevelopment projects that will expedite permitting, maximize financial resources and facilitate the reuse of the next generation of brownfields and other environmentally-impacted lands.

The formula as I see it is this: Remediation + Reclamation+ Reuse = Increased employment opportunities, improved environmental quality, community revitalization, and enhanced quality of life.

This memo outlines my vision for an Enhanced Management Process for Community Revitalization -- a new team approach and improved process for restoring the environment, realizing community revitalization goals and promoting economic development. Think of it as a community revitalization “SWAT team”. This approach represents an evolution of the Brownfields Action Team concept that has been successfully applied to a number of key land recycling projects. A great deal of thought and discussion with program staff, land recycling program clients, local government

## Appendix 1-2

leaders, and others committed to land recycling principles have resulted in this new approach to managing projects.

I believe that this new process will enhance all of DEP's remediation and reclamation programs. My hope is that even greater levels of private sector commitment to local and county government plans for growth and development on impacted, abandoned or underutilized sites will be achieved. This Enhanced Management Process for Community Revitalization will build upon existing programs and enhancements already in place.

Make no mistake about this: successful implementation of this program is a top priority for me, and for the Governor. I am asking for your cooperation and, as applicable, participation, to make it reality.

Now, allow me to tell you something about the process.

### Eligibility for Participation in the Enhanced Management Process for Community Revitalization

Our interaction with land recycling program clients and experience in project oversight indicates that successful land revitalization and redevelopment efforts have strong local sponsorship and support. Therefore, it will be the responsibility of local government leaders, and/or representatives of redevelopment, economic development or other similar agencies and stakeholders to sponsor projects for management under the enhanced process. This approach may be applied to individual properties, but should prove particularly effective in stimulating the reuse of multiple properties within blighted transportation corridors and entire communities.

To be eligible, the sponsoring local agency must submit a proposal outlining the property(s) or area(s) of concern with a description of the plans for remediation or reclamation and subsequent redevelopment. Key to this proposal will be a description of

## Appendix 1-3

how the reuse of the property meshes with community revitalization plans and priorities. Eligibility criteria will include:

- The proposed project must be consistent with local plans and zoning, and must target brownfield and grayfield property(ies) located within the corporate limits of a city or borough, or within a municipal district planned for revitalization, or within an enterprise zone or Keystone Opportunity Zone;
- A remediation/reclamation and redevelopment plan must be prepared which includes a concept plan for reuse, identified project principals (e.g. developer(s), investor(s), consultant(s), attorney(s), etc.), a time schedule for redevelopment, a description of community benefits (projected number of jobs created, housing provided, greenspace created, river access provided, projected tax revenue generated, etc.), and the level of private investment committed to the project.

### Benefits of Participation in the Process

Accelerated remediation and redevelopment is the objective of this effort and the benefits for all concerned include the economic and environmental progress thereby achieved specific additional benefits include:

**Project sponsors** will have a direct connection to the Office of Community Revitalization and Local Government support and thereby have facilitated access to financial assistance through the Industrial Sites Reuse Fund, the Governor's proposed economic stimulus package and Growing Greener II bond initiative, and any other appropriate financial assistance that may be available. A DEP project management professional will be assigned to follow and facilitate the project from the initial assessment phases through the redevelopment process. DEP technical support staff will provide project advice and assistance as needed. The goal is expedited cleanup, permitting and funding approvals.

## Appendix 1-4

The appropriate assistant regional office director or mining program office manager will coordinate and facilitate DEP remediation, reclamation, and permitting requirements in close collaboration with the Community Revitalization Executive (see below for a description of this new office).

**Community leaders and planners** will be able to prioritize and focus attention on key parcels and districts. A strong private/local/state partnership will drive redevelopment projects. Public health and environmental enhancement objectives will be served. Successful projects will ensure long-term tax stability, maximize use of available infrastructure and optimize infrastructure upgrade funding, and create jobs, housing and open space in a planned process of community revitalization.

**The Commonwealth** will benefit through increased participation in land redevelopment projects in areas other than greenfields or open space. Funds available through both existing and proposed programs can be applied to projects in a planned fashion. Public exposure to contamination will be eliminated, environmental quality will be improved, and growth and economic development will be facilitated in areas where it is needed and where perceived and real environmental impediments have made growth difficult.

### Implementation of the Enhanced Management Process for Community Revitalization

I am naming Tom Fidler, as DEP's Community Revitalization Executive, who will be responsible for coordinating and facilitating the process. Tom, who has managed the agency's remediation programs and the highly successful Land Recycling Program will collaborate with the new Office of Community Revitalization and Local Government Support(OCRLGS) in aligning the needed technical, permitting and funding assistance for proposed projects. Tom and Eugene DePasquale will coordinate the efforts of the regional and mining program district offices' community revitalization staff to promote this enhanced management process through workshops, roundtable sessions, and targeted presentations before appropriate stakeholder forums and internal DEP planning sessions.

## Appendix 1-5

Project proposals and plans may be submitted beginning March 1, 2004 to the Community Revitalization Executive. Selected projects will be assigned by the CRE to the DEP regional office assistant directors or district mining office managers who will act as single points of contact for brownfield project management. **The OCRLGS/CRE will have immediate access to staff resources within all central and field offices of the agency as necessary to complete projects in the most timely and efficient manner.** Bureau and regional directors, assistant regional directors and program managers will be expected to provide the senior management level commitment to streamline the remedial decision-making and permit reviews associated with redevelopment activities. The Community Revitalization Executive will act as a liaison to the executive staff of DEP and other state agencies (DCED, Governor's Action Team, etc.).

The reporting relationships for this enhanced management approach are somewhat unique to this agency, but I believe necessary for the success of our community revitalization agenda. This effort will cross traditional structural barriers in this agency; however, enhanced environmental improvements and redevelopment opportunities will result.

This team concept and enhanced management approach will achieve not only environmental protection goals, but will provide significant support to local efforts in community revitalization. The enhanced management process will streamline the cleanup process and cut timeframes for obtaining needed permits. The benefits derived from this approach will be far reaching. Funding assistance of projects will be optimized and staff resources will be efficiently applied. Information on how to participate in this new process, and highlights of completed projects will be posted and updated regularly on the Land Recycling Program website.

I am committed to the successful execution of this initiative, and I encourage your commitment and expect your support and participation in any way possible.

## Detailed Review of Program Enhancements

The proposed action items require further explanation as described in the executive summary of this report. This section will provide those details and the format in which they will be rolled out.

### **Outreach and Coordination of Local Government Efforts**

Outreach over the life of the Land Recycling Program has been focused largely toward the remediators, legal community and developers of brownfield projects. And while these represent significant stakeholders in the process, local governments and other non-technical entities can contribute to brownfield reuse. Providing educational and networking opportunities for these groups could result in significant successes, and broader public understanding of and participation in the program. The following actions will be implemented to address this issue.

DEP and DCED are collaborating to reevaluate and revise the criteria used to prioritize projects requesting Industrial Sites Reuse Program (ISRP) funds. During the first few years of ISRP, the available funds exceeded the requests of fund assessment/remediation projects. Those ratios have drastically changed over the last few years. There is not enough money in the fund to award grants or loans to all of the projects requesting assistance. DEP has been advised by several local government entities that if the money from the Commonwealth is not available, they will be unable to continue their brownfield redevelopment efforts. The money provided through ISRP helps to leverage hundreds of millions of dollars from other public and private sources to complete projects. As part of this criteria reevaluation, DEP and DCED will rely upon local sponsors and brownfield task forces/county entities in the project selection process. These local groups have a better understanding of the impact certain projects will have on their areas, and can help prioritize where the use of funding would be best suited.

The Department is working with county/regional economic development and redevelopment agencies to establish county/region-wide task forces to encourage and promote brownfield redevelopment. These task forces offer a forum in which stakeholders network to discuss brownfield issues. They are encouraged to prioritize projects and resources in their county/region and share ideas with their municipalities. Although DEP is scheduling initial meetings, the agency will ultimately act solely as a regulatory resource for the group, allowing the county/region to take ownership of the process.

DEP is facilitating the creation of regional revitalization roundtables. These roundtables are scheduled regionally and semi-annually to allow brownfield stakeholders to share ideas and network with their counterparts in the industry. The difference between the roundtable and the task force (detailed in the previous paragraph) is the scope and purpose. The task forces are focused on specific projects and issues in a county or multi-county area. The roundtables are designed to share information and

experiences on a much larger and broader scale. Similar to the task forces, however, the roundtables would be lead by the stakeholders not DEP.

An interagency task force is developing a comprehensive strategy to encourage brownfield redevelopment and to share information and ideas across state agencies. The group currently includes, but is not limited to, DEP, DCED, the Department of Transportation (PennDOT), and Pennsylvania's Infrastructure Investment Authority (PENNVEST). Brownfield issues and projects affect various state agencies, and this formal partnership among the departments will attempt to address issues of mutual concern. The goal is to increase the participants of these meetings to include any state agencies or organizations that have an interest in brownfield redevelopment and hold the meetings on a regular basis.

DEP will apply state funds to defer the programmatic costs of local brownfield programs through grants. In the past, local government agencies were able to use EPA funding to offset some administrative costs. Under the new Brownfields Revitalization and Environmental Restoration Act (BRERA) grants, funding of administrative costs is prohibited causing a strain on some municipal budgets.

DEP will create staff positions to act as community revitalization liaisons. Numerous local government agencies and organizations have expressed the need for select DEP staff to focus on the facilitation of brownfield transactions. Some functions that these positions could perform include expanding the Pennsylvania brownfield inventory; making presentations to interested groups and organizations; identifying sources of funding and technical assistance; and serving as a liaisons between DEP technical review staff and communities attempting to obtain permits and remediation project approvals.

The Land Recycling Program staff will exhibit and make presentations at brownfield stakeholder conferences throughout the year. All of the Pennsylvania municipal associations hold an annual conference. The Land Recycling staff can utilize these forums to educate local government officials and others on the benefits of remediating and redeveloping brownfield properties.

### **“Mothballed” Properties and Applicability of Act 2 to Responsible Parties**

The Land Recycling Program has been described as a voluntary cleanup program, yet significant contamination threats on sites and/or significant mothballed properties exist which may never go through the Land Recycling Program. DEP does not want the threat of enforcement action to deter parties from entering the Program. The Department must, however, protect the health and welfare of the Commonwealth's citizens. The following recommendations address these concerns.

Where a liable remediator commits to voluntarily clean up a site under Act 2 and diligently pursues such activities, DEP will allow liability protection and other applicable aspects of Act 2 to apply. However, enforcement action will be taken against owners of

## Appendix 2-3

contaminated property, if that owner has chosen to “mothball” the property rather than address the contamination under the Act 2 process. Also, persons committing to property cleanup under the Land Recycling Program may be ordered to assess and remediate if the voluntary actions do not result in steady, positive progress in addressing contamination.

It is the goal of the Department that all releases to the environment be remediated either under the terms of an existing permit for the facility or site of the release, or separately under Act 2. Even where a release occurs at a permitted facility or site, remediation should be to an Act 2 standard unless some other regulatory standard applies. Remediation should ideally be done through the Act 2 voluntary cleanup program as soon as possible after discovery of the release. In cases where significant direct health risk is present and voluntary remediation is not initiated promptly by a responsible party, the Department may take action under various statutory authorities to require remediation to an Act 2 standard.

All DEP programs with release response and remediation oversight responsibilities will encourage Act 2 use and attainment of a standard, through regulatory and/or policy change. This recommendation is supported under Act 2, Section 106. Also, DEP staff in some regions serve a dual role as both Act 2 facilitators and as Waste Management and/or Water Quality enforcers. This dual role will be eliminated, and a clear distinction established between facilitation by Act 2 implementers and enforcement by the regulatory programs.

Whether they caused the contamination or not, potentially responsible parties (PRPs) who promptly remediate a new release to a SHS/Background Standard and file a final report within 90 days of the release, seller/remediators who voluntarily enter the Buyer/Seller program to facilitate a purchase by a Bona Fide Purchaser (BFP), and contiguous property owners who use the Background Standard are candidates for participation in Act 2. Except where significant, identifiable risks exist to public health and/or the environment, DEP will allow liability protection and other applicable aspects of Act 2 to apply to a remediator, given diligent progress is maintained throughout the Act 2 process.

The clarification of DEP's Act 2/enforcement interface will be accomplished through appropriate revisions to Chapter 1 of the Act 2 Technical Guidance Manual, Water Quality and Waste Management penalty matrices and the Audit Policy. Any changes will be consistent with new guidance being developed by EPA under the new BRERA so that EPA approves Act 2 as a qualifying state program, and so that DEP implicitly encourages the voluntary use of Act 2 in all brownfield development. Any changes will compliment the work of DEP's internal Compliance and Enforcement Workgroup.

Mothballed sites may be contaminated, in some cases by significant releases; and represent a liability to the community in which they reside. DEP staff will collaborate with municipalities and redevelopment agencies to develop an inventory of these sites and a ranking based on degree of environmental harm and ability to reuse, that will be

used to prioritize a response. The Department will conduct investigations at such sites under the HSCA program, in cases where risks to public health or the environment are suspected. The appropriate first response will involve a request for information under Section 503 of HSCA. Sites with an inactive NIR under the Land Recycling Program also represent mothballed sites. A policy is in place to allow two years to elapse before asking voluntary remediators to clarify the status of a site for which an NIR has been submitted. In some cases, follow-up action will be ordered if any releases are significant, or the site is truly a mothballed site that local government wants to see reused.

Act 2 applies to all unpermitted releases, even on the property of operating facilities. Owners of properties with operating facilities typically do not wish to enter the Act 2 program unless prompted by a transaction. Remediators of these properties must determine a baseline and maintain an Act 2 standard even if faced with the prospect of additional releases. Requiring better spill prevention and reporting along with cleanup to a SHS to avoid a reopener under Section 505 of Act 2 will address this issue. These sites are usually candidates for an enforcement action that results in a consent order and agreement (COA) defining these relationships on a site-specific basis within the existing facility permits and the Act 2 program. Compliance with existing spill and release-reporting permit conditions, because they are facility-specific, should always be enforced before an Act 2 cleanup is processed.

### **“Best Management Practices” for Low-Risk Properties**

Program audits have indicated that many remediators choose to perform cleanups outside the formal Land Recycling Program process. A key reason is that in many cases, remediators perceive that their site has a straight forward solution under Act 2 which can be completed quickly and effectively without going through a long process of DEP review. DEP has constructed a process to address these sites.

Criteria that must be met for use of the Low-Risk Sites Program includes:

- (1) The total impacted area of soil contamination above the SHS for used aquifers must be less than 10,000 square feet and within the property of the remediator (“Site”).
- (2) Sites must attain the SHS for used aquifers or use Site Specific Standard pathway elimination or a combination of said standards.
- (3) Groundwater must not be currently impacted above the residential SHS.
- (4) All applicable public notice requirements of Act 2 and Chapters 250 and 245 must be satisfied.
- (5) Properties must be presently developed, or have a plan for development or reuse. (This criterion encompasses home heating oil tank sites).
- (6) Reports submitted containing information or analysis that constitutes professional geologic or engineering work as defined by the Engineer, Land Surveyor and Geologist Registration Law (63 P.S. §§ 148-158.2) must be sealed by a professional geologist or engineer who is in compliance with the requirements of that statute.

- (7) Persons preparing the final reports in this program must have attended a Land Recycling Program client workshop within the last 2 years.

In order to qualify as a low-risk site, the following guidelines must be followed:

- (1) A final report which includes a section documenting compliance with the eligibility criteria for participation in the Low-Risk Sites process shall be submitted to the appropriate regional Environmental Cleanup Program Regional office. The request may be submitted prior to or with the SHS final report or Site Specific Standard Remedial Investigation Report. The request will be approved within 10 days of written receipt unless the Department determines that the criteria, provided in the previous paragraph, has not been met.
- (2) For sites approved under this process, the Department, under Chapter 245, will exercise §245.310 (c)(6), §245.311(b)(6), §245.313(c)(6), (relating to review of reports with no action).
- (3) For sites approved under this process, the Department, under Chapter 250, will publish notice of intent to remediate in the Pennsylvania Bulletin per Act 2 Section 303 (h)(1)(i), 304(n)(1)(i).
- (4) For projects determined consistent with the qualifying criteria for low-risk sites, the Department will issue a letter acknowledging compliance with an environmental remediation standard as provided for in Act 2, Section 501(a) within 10 days of the receipt of the completion report or final report.

Since DEP staff will not be conducting an extensive, iterative technical review on projects submitted under this process, regular audits will be conducted on a biennial basis to ensure the quality of the cleanups. If deficiencies in the applicable requirements of Chapters 245 or 250 are found, and represent potential, significant health risk, the Department will notify the property owner and the environmental professional who sealed the report. Discovered inadequacies in report submissions will result in the Department reporting the performance of the environmental professional to the Pennsylvania Department of State, Bureau of Licensing. The remediation may also be reopened to address deficiencies identified.

### **Notice of Intent to Remediate (NIR) Form and Acknowledgement Letter Changes**

Several changes have been made to the NIR form and acknowledgement letter to ensure the most effective use of these documents. The Department will encourage all concerned parties to participate in meetings and other forms of communication early in the Act 2 process. The Notice of Intent to Remediate (NIR) form has been simplified to allow remediators to file notice very early in the environmental study process. An acknowledgement letter has been developed to encourage interaction with the department early and often. The form will also be more general in nature to allow for earlier submission to DEP. This change will allow the Department to be alerted to potential projects as early in the remediation process as possible. The updated NIR form and acknowledgement model letter may be reviewed in Appendix 6.

## Appendix 2-6

In addition to sending an NIR to the municipalities, a proposed change to the Chapter 250 regulations will require remediators to send the NIR letters to a designated county organization where the project is located. This added notification will provide greater public awareness of the redevelopment projects being conducted in the area. Finally, the language in the NIR letter has been revised to make it easier for the general public to understand.

### **Program Consistency**

By design, the Act 2 program provides for development of reports without DEP input, but with the assurance that DEP make a determination on those reports within a given timeframe. The focus groups and workgroups identified different procedures for calculating this timeframe across the regions.

The program has developed recommended project management steps to ensure an adequate level of interaction with the regulated community. The recommended project management steps are listed in Appendix 6. The department will also provide written concurrence for decisions made during the meetings/communications.

Site characterization is best directed by professional judgment. Therefore, site characterization shall be performance-based and acknowledge that the remediator and the licensed environmental professional maintains liability if their site assessment design work results in further environmental problems discovered in the future. The statement of this policy is as follows:

1. Professional judgment and analysis are inherently part of the process of site characterization in the Land Recycling Program. However, this analysis must be made by a Commonwealth licensed environmental professional (P.E. or P.G.) and include the application of acceptable professional practices.
2. The policy of the program is to ensure that a licensed environmental professional has prepared or overseen the work, and to determine if practices acceptable to the profession were employed. The judgments and the analysis of that professional will be accepted based on whether the conclusions made were *reasonable*. Specifically to ensure the following:
  - a. Noting that the report was submitted under seal of the appropriate licensed professional.
  - b. Examining the extent to which the methods used were acceptable to the profession.
  - c. Examining the extent to which the conclusions presented in the report are reasonable, given the data used together with commonly applied principles of the related sciences.

3. The department will reduce iterative technical reviews concerning what is necessary to adequately assess a site. When a report is prepared in accordance with Act 2 and is certified by a licensed environmental professional consistent with this policy, the Department will generally not conduct further detailed technical review and the professional is assuming the responsibility for the professional work documented therein. Audit results of projects completed and reviewed by the Department will be documented in a biennial report to the Department of State. Through the audit, should deficiencies in the applicable requirements of Chapters 245 or 250 be found that represent potential, significant health risks, the Department will notify the property owner, the appropriate environmental professional and the Department of State. Additionally, the remediation may also be reopened.

Standardized procedures to ensure administrative completeness of final report submissions across the Department's regional offices are being implemented. The following items must be received and verified before the review timeframe established by Act 2 will begin. If any items are missing, the person presenting the final report will be notified that the submission is incomplete.

1. Transmittal sheet (all of the items in this checklist must be attached to the transmittal sheet)
2. Fee check payable to the Commonwealth of Pennsylvania
3. Proof of publication in the local newspaper
4. Proof of notification/receipt by municipalities
5. Final Report Summary

A technical completeness checklist is available for use by the regulated community to help ensure completeness and reduce the number of deficiency letters issued by DEP. The checklist may be found in Appendix 7.

DEP will reduce final report denials by instead issuing letters of substantive deficiencies. Consultants will have a reasonable amount of time to fix and submit a response to the identified deficiencies. Resubmittal of corrected reports may be made without additional fees. DEP will issue a decision on the resubmittal of the final report in 30 days. Only one deficiency letter will be sent to the remediator. If the deficiencies are not corrected, the final report will need to be completely resubmitted as a new report and adhere to the timeframes established in the statute. While a final report may still be "deemed approved" if DEP does not provide the consultant with an approval or a deficiency letter within 60/90 days of original submission, a final report will not be "deemed approved" if DEP does not issue a final decision on the corrected deficiencies within the 30 day deadline.

**Programs and Procedures to Ensure the Proper Execution of Institutional and Engineering Controls which Provides Long Term Assurance of Remedy Integrity**

## Appendix 2-8

In 2002, DEP initiated an audit of land use records to determine compliance with institutional controls prescribed in final reports approved by the agency since inception of the program in 1995. This review of records revealed that 65% of the approved projects were in compliance. Owners of property whose records were determined non-compliant were notified, and provided a six-month period to record necessary land use restrictions. For property owners not responding to the notification, the Department is drafting enforcement orders under Section 512 of the Hazardous Sites Cleanup Act of 1988. These orders will be recorded with the deeds for the non-complying properties.

For properties with approved containment remedies (e.g., caps, buildings, cover, etc.), DEP staff are conducting site visits to ensure proper maintenance of implemented controls. All approved projects since 1995 will be visited during 2004.

To ensure ongoing compliance with institutional and engineering control requirements, the agency is taking the following actions.

DEP in collaboration with a team from EPA Headquarters has explored the inclusion of completed remedial projects with approved containment remedies with the PA ONE Call Network. This system is GIS-based and is designed to provide proper notice prior to excavating within an area of concern. Traditionally, the system was designed to protect against exposure to buried underground utilities. Meetings have been conducted with the PA ONE Call system administrators, and a sincere interest exists to expand system capabilities to include remediated brownfield properties. To accomplish this, the Network's authorizing statute must be revised to expand the definition of "facility" and "facility owner/operator". Draft language has been prepared to effect this change. In addition, the Chapter 250 regulations will be revised to require all properties incorporating containment remedies to subscribe to the PA ONE Call system.

DEP is also investigating the application of the Uniform Environmental Covenants Act (UECA) to remediated Pennsylvania properties. The National Conference of Commissioners on Uniform State Laws ratified use of the UECA in early August 2003 in an attempt to address the increased use of environmental covenants across the country as a means of controlling exposure to residual contamination left on property. Representative Carol Rubley (District 157) has introduced a Pennsylvania version of the UECA (HB 2226) in an attempt to pilot the process within the Commonwealth. The Department supports the bill in principle, and in addition, is exploring ways to accomplish similar assurances through revisions to Act 2 and through use of existing Department authorities. The issue of land use control oversight will be addressed during 2004 either through passage of the Rubley bill or through a combined legislative/administrative process devised by Department staff.

### **Grayfields Program**

With the passage of the Small Business Liability Relief and Brownfields Revitalization Act in 2001, the definition of a brownfield was expanded to include mine-scarred land or grayfields. This change has stimulated DEP to begin work on legislation

that would allow certain abandoned mine lands (AMLs) to be cleaned up through the Act 2 process. The sites that will be considered for participation in the program will be well positioned for redevelopment, i.e. – located near resources and infrastructure that make them desirable properties. Currently, the DEP Office of Mineral Resources Management is leading this effort with the help of Land Recycling Program staff. However, the newly formed Office of Community Revitalization and Local Government Support will become more engaged in encouraging and facilitating the reuse of AMLs.

The biggest concern in the development of these properties is finding a source of incentive funding. The most viable source of funding for this initiative comes from a DEP grant received through the federal Office of Surface Mining (OSM). Currently, this grant allows 90% of the appropriated total to be used for redevelopment and reuse of AMLs. DEP plans to utilize these monies to stimulate private investment in the reuse and redevelopment of these properties.

### **Legislative Changes to Act 2**

A legislative change to Act 2 will be proposed to increase program fees to \$2,500 per report, except for single family home heating oil spills and cleanups completed in 90 days from the date of release. The fees for the exceptions should remain at \$250. The increase in fees should encourage participants to take the process more seriously and better reflect the costs the department for staff review time.

Analysis of state voluntary cleanup programs released by the Environmental Law Institute in 2002, presents the full range of fees assessed by states for the review of program submissions. Except for several states which do not assess a fee, the Commonwealth has the lowest fees of states with established voluntary cleanup programs (see Appendix 8). States commonly establish a base fee of \$1,000 or more, and in addition, charge hourly rates for staff time dedicated to report submittals.

The recommendation to increase program fees to \$2,500 per report will provide greater support for program administration, and yet should not represent a deterrent to program participation.

### **Conclusion**

The discussions with Program clients and staff workgroups have verified that, except for minor changes, the statutory foundation and administrative implementation of the Land Recycling Program is well designed. The funding crisis faced by HSCA is, however, of very serious concern. Addressing this crisis and establishing a new, dedicated source of funding as proposed by Governor Rendell is essential to continuation of this program. By putting the changes and ideas outlined in this report and the Governor's budget address into practice, DEP will ensure that its Land Recycling Program continues to be a model for the remediation and redevelopment of brownfield properties across the county and, indeed, around the world.

## **Focus Group Sessions**

In an effort to evaluate the effectiveness of the Land Recycling Program, also referred to as Act 2, the Department of Environmental Protection's (DEP or the Department) Secretary, Kathleen A. McGinty and the Central Office Land Recycling staff held seven focus groups with varied interests from May through August. The meetings were designed to allow each group an opportunity to express their ideas and concerns about the Program. By enhancing the Program, DEP can work toward the goals established by the new administration.

Participants were chosen from across the Commonwealth. They represented individual companies, a variety of cities and municipalities, statewide associations and organizations, and other stakeholders involved with the remediation and redevelopment of brownfield properties. Also included in the sessions were various members of DEP's executive staff and representatives from the offices of Senators Mary Jo White and Raphael Musto and Representatives William Adolph and Camille George.

While each group had issues and ideas unique to their interest group, there were several positions shared by all of the groups. The following is a description of the major points raised in each group.

### **Economic Development Agencies and Private Developers May 15, 2003**

#### Participants:

Eugene Barr, Pennsylvania Chamber of Business and Industry  
Jerald Dettore, Urban Redevelopment Authority of Pittsburgh  
Jon Edelstein, City of Philadelphia  
Ellen Ferretti, Pennsylvania Environmental Council  
Senya Isayeff, Alliance Environmental Systems  
Martin Marasco, Altoona Blair County Development Corporation and the Pennsylvania Economic Development Association  
Marietta Myers, Chester County Economic Development Corporation,  
Jonathan Spergel, Manko, Gold, Katcher and Fox representing O'Neill Properties Group.

The first point discussed in this focus group was the need to make the Special Industrial Areas (SIA) cleanup designation in Enterprise Zones and Keystone Opportunity Zones (KOZs) permanent. Currently, DEP is extending SIA cleanups by five years on eligible properties in Enterprise Zones that are being phased out. SIA cleanups benefit developers by allowing them to conduct the quick remediation of a property on which the intended use is another industrial operation. Developers need only to address immediate, direct, or imminent threats, which allows for quick reuse of the property.

Another point of interest was a change in the proportion of grants and loans distributed under the Industrial Sites Reuse Program (ISRP). Currently, the Land

## Appendix 3-2

Recycling and Environmental Remediation Standards Act (Section 702(c)) allows for the distribution of no more than twenty percent (20%) of the Industrial Sites Cleanup Fund for grants. The remaining eighty percent (80%) is reserved for low interest loans. The group asked that the statute be changed to provide a greater percentage for grant funding. Along the same line of thinking, some portion of the ISRP funds should be available for the development of residential housing on brownfield properties. At present, these funds are limited to projects that generate and retain jobs. However, the need for housing in urban centers is increasing and using ISRP funds to address sites where developers want to build housing would benefit everyone.

The economic development agencies and developers would also like to see assistance from DEP in the removal and disposal of asbestos. Many brownfield properties have buildings that need to be demolished before redevelopment can occur. These buildings often contain asbestos, and the expense necessary to remove and dispose of this substance in landfills is often cost-prohibitive.

Expanded community involvement and education are important topics that also need to be addressed. Several ideas were provided to tackle these issues. The development of a standardized public involvement plan created by DEP would help cities and municipalities encourage community participation in the remediation and redevelopment of brownfield properties. Highlighting successful redevelopment projects could show communities what brownfield reuse could do to improve their neighborhoods.

Also discussed was the creation of DEP brownfield transaction support specialists which would allow a select group of DEP staff to focus their efforts on acting as a liaison between the Department and various interest groups, including economic development agencies, local governments, citizen groups and other state and federal agencies. The idea would be to create a single point of contact in DEP to answer questions concerning brownfield remediation and redevelopment on a non-technical level.

Inconsistency of program implementation across the DEP regional offices was an issue raised in this as well as the other four focus groups. The suggestion was made that the DEP Central Office play a more direct role in managing the inconsistencies to ensure uniform accountability for the fair and accurate review of program projects.

### **Environmental Consultants May 22, 2003**

#### Participants:

William Ahlert, Lawler, Matusky & Skelley Engineers

Gary Brown, RT Environmental Services, Inc.

Jill Gaito, Gannett Fleming, Inc.

Kenneth Miller, Civil and Environmental Consultants, Inc.

David Perry, American Geosciences, Inc.

Craig Robertson, Groundwater Sciences Corporation.

## Appendix 3-3

This group works directly with DEP staff on the remediation of a property. The first issue raised was the concern that many properties bypass the Land Recycling Program due to time and cost constraints. These properties are being cleaned up to the established standards; however, reporting is not submitted to DEP for review, and ultimately, liability relief. A suggestion was made that DEP should develop a process that allows smaller sites to be cleaned up in a shorter, more cost-effective timeframe. A set of criteria needs to be established to specifically address the properties that are avoiding the current Land Recycling process. The criteria that would allow for fast track approval under the Voluntary Land Recycling Cleanup Program (Act 2) process were suggested to be properties under a certain size, cleanups using only SHS or SIA, and sites that have no groundwater impact.

This group also believed that inconsistencies across the DEP regional offices were a detriment to the Program. They suggested the establishment of more defined guidelines to assist regional staff in their decision-making.

The environmental consultants raised the point that some economic development agencies they work with are still afraid of liability even though they are protected under the current statute. The idea of environmental insurance coverage as an incentive and a backstop for these groups to fully participate in more brownfield cleanups and redevelopment was suggested as a solution to this concern.

Finally, the issue of the safe fill regulations was broached by this group and subsequently discussed by other focus groups. There is concern that the safe fill regulations will create additional work and therefore additional expense if the current draft of the regulations is approved.

### **Lending Community May 22, 2003**

#### Participants:

Michael Brown, Citizen's Bank  
Patricia Dixon, Fulton Financial Services  
Christine Olshesky, PNC Banking Corporation  
Keith Welks, Phoenix Land Recycling Company.

The lenders reaffirmed the concern of inconsistency in the regional offices and agreed with the possible solutions developed in the earlier focus group.

In addition, a change to Act 3, the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act, was suggested. Currently the law states that lenders and EDAs are offered liability protection for holdings of ownership in property as a security interest. The recommendation was made to eliminate references to security interest as economic development agencies and lenders often take possession of a property for a short period of time during transfer of ownership.

**Legal Community  
May 30, 2003**

Participants:

Kevin Garber, Babst, Calland, Clements and Zomnir

Marc Gold, Manko, Gold, Katcher and Fox

Michael Meloy, Manko, Gold, Katcher and Fox representing the Brandywine Realty Trust

Donald Wagner of Stevens and Lee

Howard Wein, Klett, Rooney, Lieber and Schorling

Keith Welks, Phoenix Land Recycling Company

Maxine Woelfling, Morgan Lewis

This group discussed several of the same topics addressed in other sessions including inconsistencies in the regional offices, a need for greater outreach efforts, and a process to deal with smaller properties that are bypassing the current method.

Another idea suggested by the legal community was the expansion of the Land Recycling Program to include mining sites. The new federal brownfield law, signed in 2001, added mine-scarred lands to its definition of brownfields. It would be beneficial to Pennsylvania to do the same.

An additional proposal was to develop a waiver of back taxes or tax liens commensurate with costs to assess and/or remediate the property as necessary when someone purchases a property and enters into the Land Recycling Program process. This waiver would act as an incentive for individuals or companies to purchase abandoned properties that are a burden on communities and local governments.

The legal community also raised a concern that many people believe that entering into the Land Recycling Program automatically excludes them from enforcement actions by other program areas in DEP. While this is not true, DEP needs to make an effort to make it clear that companies and individuals cannot use the voluntary cleanup program to escape enforcement or delay cleanup. However, other DEP program areas should not penalize companies and individuals if they choose to voluntarily clean up contamination on their properties.

**Local Government Representatives  
June 3, 2003**

Participants:

Diane Elliott, Meyner Center for State and Local Government at Lafayette College

Thomas Fountaine II, Borough of Hollidaysburg and the International City/County Management Association

John Garner, Jr., PA League of Cities and Municipalities

Ayanna King, Ayanna's Consulting and Concepts and Member of the Environmental Justice Advisory Board

James Wheeler, PA State Association of Township Supervisors.

The local government representatives had similar suggestions that were discussed in previous focus groups. Their ideas included additional education and outreach, a template for a public involvement plan, a waiver for back taxes, inconsistencies across the regional offices, and the need of a brownfield transactional support specialist to act as a liaison between DEP and various interest groups.

An additional and very important issue discussed in this group was the concern over the declining financial support of the Hazardous Sites Cleanup Act (HSCA) and subsequently ISRP. The Capital Stock and Franchise Tax which funds the HSCA budget is being phased out and each year less money is transferred to the Department of Community and Economic Development (DCED) to distribute for brownfield projects. DEP needs to address the loss of this funding source in order to continue the remediation and redevelopment of brownfields in the Commonwealth.

**DEP Regional Office Environmental Cleanup Program Staff  
July 1, 2003**

Participants:

Kenneth Beard, Solid Waste Specialist Supervisor, Remediation Services Division,  
Central Office

Kenneth Bowman, Land Recycling Program Attorney, Southwest Regional Office

Joseph Brogna, Environmental Cleanup Program Manager, Northeast Regional Office

David Hess, Section Chief, Voluntary Standards and Cleanup Program, Central Office

Robert Day-Lewis, ECP Special Projects Chief, Southeast Regional Office

John Matviya, Environmental Cleanup Program Manager, Southwest Regional Office

This group met after Secretary McGinty gave her testimony, so discussions revolved around the regional staff's comments on topics addressed in the testimony. The regional staff emphasized the importance of maintaining the HSCA fund. The loss of this funding would be detrimental to the Environmental Cleanup Program (ECP). Legislators need to be made aware of the implications that would result from the elimination of this funding source. Not only does it pay for the majority of ECP staff salaries, it is often the starting point for procuring financial support for many brownfield redevelopment projects.

The necessity of a Memorandum of Agreement (MOA) with the U.S. Environmental Protection Agency (EPA) was also discussed. Staff believed, based on their work with consultants, that remediators would be more comfortable knowing the DEP and EPA had an agreement that would offer protection from enforcement action by the federal government when they successfully completed a cleanup to Act 2 standards.

The staff also concurred on several other points raised by the previous focus groups including enforcement of mothball properties, the need for better monitoring of

## Appendix 3-6

institutional controls, safe fill issues, and an expedited process for the cleanup of simple, low risk sites.

### **Smart Growth Representatives**

**August 26, 2003**

#### Participants:

Ronald Bailey, Planning Director, Lancaster County Planning Commission

Joanne Denworth, Senior Policy Manager, Governor's Policy Office

Jason Duckworth, Vice President, Arcadia Land Company

Thomas Hylton, Author, Save Our Land, Save Our Towns

Andrew McElwaine, President and CEO of the Central PA Regional Office,  
Pennsylvania Environmental Council

Robert Rosenthal, Vice President of Business Development, The Westrum Development  
Company

Mark Schneider, President, The Rubinoff Company

Smart Growth is a concept that the brownfields industry is trying to align itself with more closely these days. Both groups share many of the same goals and can work together to achieve them. One of the main themes that came out of this focus group was that if the tools and assistance were there to reuse brownfields, developers would take on the projects. In addition, this group voiced its concerns that many of Pennsylvania's municipalities do not have the resources, i.e. – staff and funding, available to devote time to redeveloping brownfields.

### **Summary**

These focus groups brought many ideas to the table that could increase the number of properties cleaned up and redeveloped under the Land Recycling Program. Upon examining all of the recommendations that were made, DEP developed a list of recommended action items. These proposed items were presented to the Senate Environmental Resources and Energy Committee in June 2003.

# Brownfield Action Team In Pennsylvania

February 2004

Appendix 4-2

Brownfield Action Team- Roots to Reality ..... 3

- A. Introduction..... 3
- B. Program ideas from other states..... 3
  - 1. Financial programs in states with limited integration between technical and financial project management. .... 3
  - 2. Illinois- Coordinating financial assistance as part of project management. .... 4
  - 3. New Jersey- Coordinating multiple elements affecting brownfield reuse success 5
- C. Contrast and lessons learned: Pa program vs other states..... 6
  - 1. Coordinate programs and staff dealing with brownfield reuse..... 6
  - 2. PA must have; a clear vision of the objectives, and effective high level commitment to those objectives. .... 7
  - 3. Assign clear responsibility of achieving success of the program goals. .... 7
  - 4. Give the persons with the assigned responsibility the authority and organization structure to address problems separating their project status at any one time and the stated objectives of the program..... 7
  - 5. The background experience of the proposed brownfields project managers is an important consideration in an effective program..... 7
  - 6. The reporting relationships and geographic assignment of the project managers is an important consideration in implementing a quality program..... 8
  - 7. Don't spread the available resources across all brownfield sites that come through the door, but rather focus attention on selected sites..... 8
  - 8. Be comprehensive in addressing specific geographic areas for redevelopment not just specific types of eligible brownfields ..... 8
  - 9. Let the prioritization of project support and assistance be driven by public support:..... 8
  - 10. Control the number and scope of projects in the program year to year to match the resources available (staff and monies) to completely service the projects selected..... 8
- D. Implementation of an Enhanced Brownfield Redevelopment Approach through a Brownfield Action Team: ..... 9

## **Brownfield Action Team- Roots to Reality**

### **A. Introduction**

Act 1995-2 held a vision that remediated and reused industrial properties benefited the public in many ways, not the least being smart growth through economic redevelopment of what has come to be known as brownfields. Since 1995, the Land Recycling Program has developed a national caliber model of voluntary cleanup program that has been very successful. The evolution of the program now has it focusing on a comprehensive means to address all factors impeding the reuse of brownfield sites. The clear environmental standards and flexible voluntary program currently in effect are indeed important, but now they must be supplemented with inter/intra-agency coordination of regulatory requirements and targeted financial aid for remediation, infrastructure rehabilitation, demolition, and redevelopment activities. This comprehensive approach to assuring total reuse success on a site-by-site basis is the program challenge in the coming years. To set the course of action, other states' approaches to brownfields reuse assistance were examined. Specifically, the Great Lakes States and the states bordering Pennsylvania were studied. This report presents the results of that study and a description of the Brownfield Action Team in Pennsylvania.

### **B. Program ideas from other states**

#### **1. Financial programs in states with limited integration between technical and financial project management.**

New York's program is generally one of providing grants and loans. They have a 1.4 billion dollar bond issue used to finance this program. They offer grants to municipalities for both investigation and cleanup of brownfields. The application asks if the property has been abandoned for more than a year, but there appears to be no consideration in issuing the grant or loan based on the reuse benefits of the project.

Delaware's program is based on a Voluntary Cleanup Program (VCP), tax incentives and a grant program. Up to \$25,000 or fifty percent of the total projected costs (whichever is less) is available to eligible projects. Funds must be used to conduct investigations of vacant, unoccupied or under-utilized sites that are suspected of contamination due to prior commercial or industrial use. These properties must possess the ability to maintain, expand or diversify business or industry within the State and/or to maintain or increase the State tax base. Any private sector party located in Delaware may apply for assistance. Financing is not available for routine environmental assessments, which are deemed a normal and ordinary part of real estate transactions.

Maryland has two legs to its brownfields program- a VCP and economic assistance. The VCP, administered by the Maryland Department of the Environment, streamlines the environmental cleanup process for sites, usually industrial or commercial properties, that are contaminated, or perceived to be contaminated, by hazardous substances. Developers and lenders are provided with certain limitations on liability and participants in the program are provided certainty in the process by knowing exactly what is required. The Brownfields Revitalization Incentive Program, managed by the Department of Business and Economic Development, provides economic incentives such as loans, grants and property tax credits to clean up and develop

## Appendix 4-4

certain properties. These two programs, managed by two agencies, appear to be administered separately and independently, similar to the Pennsylvania model.

Ohio's website indicated that the Site Assessment & Brownfield Revitalization Program (SABR) provides outreach to communities dealing with blighted and contaminated properties, raising awareness of the available sources of technical and financial assistance for the revitalization of brownfields, including the Clean Ohio Revitalization Fund. The program also coordinates division staff and facilitates the assessment of properties under a number of different state and federal programs. Indiana has a basic grant and loan program for brownfields sites, with no apparent organizational support specific to guiding sites through to redevelopment.

Minnesota's brownfield program is basically an aid program for site assessment and is done through the federally funded Brownfields Site Assessment Program. The other aspect of the program is the environmental liability relief offered to brownfields that go through the VCP. The fee for such is based on the time and costs involved for the state to review the submittals.

Michigan has a "Clean Michigan Initiative" (CMI). The primary objective of the CMI Brownfield Program is to clean up contaminated sites that will also promote redevelopment. The law authorizes the Department of Environmental Quality to spend \$335 million in the following manner:

- \$243 million to \$263 million is specifically designated to clean up contaminated sites that will promote redevelopment.
- \$20 million is designated for grants to local units of government for response activities at known or suspected contaminated properties that have redevelopment potential.
- \$12 million is for grants to local units of government to assist with remedial costs at municipal solid waste landfills they owned or operated which are on, or nominated for, the federal National Priorities List (i.e., the Superfund list).
- Not less than \$40 million, nor more than \$60 million of the \$335 million, is to be used at contaminated facilities that pose an imminent or substantial endangerment to the public health, safety, or welfare, or to the environment.

Wisconsin's Brownfields program is based on two initiatives: the 1994 Land Recycling Law, a VCP which addresses environmental liabilities; and the 1997-99 biennial budget which established the Brownfields Grant Program and Brownfields Study Group. So far their Brownfields Initiative Grant Program has provided \$29.95 million in funding for 72 brownfield projects that promote economic development and have a positive effect on the environment. Currently it is a \$ 7M/year program. It has a "no viable responsible person" provision, similar to the Pennsylvania special industrial area process.

### **2. Illinois- Coordinating financial assistance as part of project management.**

Illinois has an *Office of Brownfields Assistance* (OBA) which manages the brownfields grant and loan programs and offers technical support to communities through the services of its Brownfields Representatives. The state's Brownfields Representatives work directly with communities to explain cleanup options, regulatory programs and requirements and guide municipalities through the brownfields cleanup and redevelopment process.

The Office of Brownfield Assistance (OBA) deals exclusively with municipalities in addressing the contamination aspects of a site. Sites that are related to a viable business would not go

through this office. However, the grants they give to municipalities may be used on privately held sites or for orphan sites. The OBA staff includes Brownfield Representatives, whose job it is to manage grants, coordinate issues with the voluntary cleanup program and offer technical assistance and direction to technical issues, which may be addressed by other state agencies (e.g. permitting). Their job is done when the site is cleaned up. They measure success of their program in terms of acres of land remediated. Any further state involvement and financial assistance to bring the site to full reuse would be handled by the economic development agency of the state. Basically, the financial aspect of site study and cleanup is managed within the OBA, with their own funding sources, and without the involvement of the economic development agency. The head of the OBA says this is a desirable position for them.

The Brownfields Redevelopment Grant Program provides funding to local municipalities to inventory and investigate brownfields properties. The Illinois Brownfields Redevelopment Loan Program is a revolving low-interest loan program that provides funds to municipalities and the private sector for the environmental cleanup of brownfields sites. It is a requirement that sites getting grants must go through the state's voluntary cleanup program.

### **3. New Jersey- Coordinating multiple elements affecting brownfield reuse success**

New Jersey has by far the most extensive program for promoting brownfield reuse among the states examined in this analysis.

#### **a) NJDEP's Brownfields Development Area Initiative**

##### **1) Description**

The New Jersey Department of Environmental Protection (NJDEP) has developed a *Brownfields Development Area (BDA)* Initiative. The heart of his approach is the effort to work with selected communities impacted by multiple brownfields to design and implement remediation and reuse plans for these properties simultaneously, so that remediation and reuse can occur in a coordinated fashion. A BDA is made up of a contiguous geographic area that may contain brownfield and non-brownfield properties that are associated with the brownfield areas.

In this process all stakeholders have the opportunity to participate in the reuse effort. These stakeholders include owners of contaminated properties, surrounding property owners, potentially responsible parties, developers, community groups, technical experts for the local government and residents. The purpose is to remediate and revitalize *communities and neighborhoods*, not just individual properties.

The Steering Committee and Office of Brownfield Reuse work together.

#### **Steering Committee:**

The Steering Committee represents the affected community with the demonstrated commitment and leadership capacity to bring the BDA project to completion. It is made up of a number stakeholder groups that may include representatives of municipalities, owners of the brownfield properties, potential responsible parties, operators, and community groups or at least evidence of support from local community members. A project manager from the office of Brownfield Reuse is assigned to the project who then meets with the steering committee to establish project expectations. At this meeting, the Steering Committee presents an overview of

their goals for the initiative. Staff from the Office of Brownfield Reuse provides a detailed discussion of the role they will play and the support to be offered throughout the process.

### **Office of Brownfield Reuse:**

This office has the responsibility for assuring the success of the brownfield reuse by coordinating the work from the technical remediation activities, state and local permits, grants and loans and other interface issues with state and local agencies. Project Managers in a central office are assigned projects throughout the state. They meet weekly with the program manager to discuss progress and problems. They work with a technical voluntary cleanup unit that addresses the technical aspects of remediating brownfield sites. If there is some technical issue impeding the cleanup and reuse of an Office of Brownfield Use site, the project manager can raise the issue to senior management. Likewise, if the remediators of general VCP sites or brownfield sites feel that they are not being treated equitably with the NJ program rules, they can raise disputes to what is in effect a dispute resolution board, consisting of three senior managers representing the case management and technical and economic sides of the program. The key to the ability of the Office of Brownfield Reuse project managers to resolve issues quickly is that they work directly for a deputy level director. Their weekly meetings with the executives facilitate resolution of issues quickly and decisively. The Office of Brownfields Reuse in turn works closely with other involved agencies and offices, including the Economic Development Authority (EDA) and the Office of Smart Growth (OSG) to support the economic considerations of the project.

## **C. Contrast and lessons learned: PA program vs. other states**

Several of the states examined have programs where assistance of “where to go for help” is given to remediators of these sites (e.g. where to get loans, where to get cleanup standards, where to get permits, how to voluntarily clean up sites, etc). PA is somewhat like this, but is unfortunately not structured to be as helpful as possible because the applicant must deal with many people and have to coordinate the process themselves. In two of the states examined (Illinois and New Jersey), there is specific staff to help coordinate technical and economic aspects for developers of brownfield areas. In Illinois, the state representative provides grant and technical coordination for the study and cleanup only. New Jersey goes the farthest into tasking the state brownfields project manager to coordinate with the relevant agencies to facilitate, monitor and assure success of the project through to the actual reuse of the property. The differences between Pennsylvania, Illinois and New Jersey have been reviewed for lessons learned.

### **1. Coordinate programs and staff dealing with brownfield reuse.**

Currently, Pennsylvania’s Program is split between DEP and DCED, with DEP coordinating cleanup activities and DCED coordinating financing for the reuse of brownfield sites. Neither agency helps the remediator manage all aspects of the remediation and redevelopment process. Furthermore, remediators of voluntary sites may deal with the Land Recycling Program in central office, and ECP and permitting staff in each of the six different field offices. New Jersey’s brownfields unit serves as a project management function, coordinating services from the technical cleanup units, permitting units and the grant and loan agencies- for both remediation grants and economic development grants.

**2. PA must have; a clear vision of the objectives, and effective high level commitment to those objectives.**

Pennsylvania must develop a broad and consistent organization culture in DEP which embraces the value of industrial property reuse and the risk-based approach to cleanup as a means of providing protection to human health and the environment. Recycling is a sustainable concept - for waste and for land. The needed change in culture for the DEP must start from the top of our organization and be filtered down to the bottom first through managers committed to compliance assistance, voluntary cleanup, brownfield redevelopment (both technically and financially), and general public service. Management and staff accountability for implementing these concepts is critical. This change in culture should also be directly instilled by top level executives Department-wide, communicating their commitment to these concepts and setting a clear vision for the program.

**3. Assign clear responsibility of achieving success of the program goals.**

Currently, the Environmental Cleanup Program assigns the case management function to those in the lowest levels organizationally. The objectives of executive management must be implemented consistently by reducing levels of management and by empowering motivated, facilitative staff professionals. Project managers must not only streamline site cleanup, but also address issues confronting the remediator and developer in completing the reuse of the property. Therefore it is believed that the Pennsylvania program must have specific people (project managers) assigned to manage selected brownfield sites and have the direct responsibility for the success (environmental, financial and reuse) of these sites tasked to them. If SUCCESS of the program is defined as the remediation to health based levels and reuse of these brownfield sites, then that is how the success of the job performance for these project managers should be measured.

**4. Give the persons with the assigned responsibility the authority and organization structure to address problems separating their project status at any one time and the stated objectives of the program.**

It is imperative that these project managers must have the both direct and indirect authority to resolve issues. They should organizationally report to a single, high-level executive (e.g. not have multiple levels of management between them and this executive). This provides for time sensitive project management by virtue of direct access to the executive, and facilitates thorough understanding of issues at the top and quick resolution of them by the executive in charge. Generally, effectiveness can be gained, and public monies saved, by eliminating one or more levels of management in the current program.

**5. The background experience of the proposed brownfields project managers is an important consideration in an effective program.**

Both New Jersey and Illinois utilized staff with technical backgrounds and long term experience (10-20 years of project management). Illinois experienced a period where non-technical staff in the field were assigned to service brownfield sites by fielding questions and directing them to the appropriate technical staff. That process failed because of the complexity and technical nature of the brownfield sites. Now, even though their project managers oversee the grants for the sites, they are chosen based on their technical background and years of project experience.

The Illinois manager strongly recommended that technical people be utilized to service brownfield projects.

**6. The reporting relationships and geographic assignment of the project managers is an important consideration in implementing a quality program.**

These factors are particularly significant in this analysis because the proposed project managers would have to interface effectively with people from various programs and offices. Both Illinois and New Jersey acknowledge the great advantage of having staff within the brownfields office interact and draw experiences from each other. It also consolidates the line of authority to the head of the brownfield office to which they report.

**7. Don't spread the available resources across all brownfield sites that come through the door, but rather focus attention on selected sites.**

New Jersey has a voluntary cleanup program that addresses all kinds remediations that come through the door, some of them brownfields. However, the brownfield sites (individual or area wide) that get the specialized attention of the OBR require the financial, technical and management attention needed to assure their ultimate success of being reused in ways beneficial to the local community.

**8. Be comprehensive in addressing specific geographic areas for redevelopment not just specific types of eligible brownfields**

This is an interesting management approach being implemented by New Jersey. They don't focus on areas with a specific type of applicant (e.g. - redevelopment authority property), type of brownfield (e.g., vacant, tank sites or non-tank sites), or size of property. Rather they focus on a whole community area that may include, brownfield areas (vacant, active), economic development zones, non-brownfield areas, voluntary cleanup sites, or mothballed properties. Remediation money is then committed specifically to higher priority sites.

**9. Let the prioritization of project support and assistance be driven by public support:**

A number of states do not apply financial or technical support resources to projects unless there is identifiable commitment to reuse and redevelopment by community stakeholders and project principals. This supports the success of the project by having buy-in by local stakeholders. It is also key in allowing the local communities to be part of the prioritization of sites participating in the program.

**10. Control the number and scope of projects in the program year to year to match the resources available (staff and monies) to completely service the projects selected.**

In Pennsylvania, where funding levels have been an issue, it may be wise to start small and gain experience in the amount of staff time and financial aid needed to support these projects in a first class way. The program must be scaled through matrix management approaches to the size that meets project demand and applies available financial resources to the most beneficial projects and to projects with the strongest local sponsorship.

## **D. Implementation of an enhanced brownfield redevelopment approach through a Brownfield Action Team:**

To apply these lessons learned, Pennsylvania should consider the following changes to its Land Recycling Program:

1. A team approach and an enhanced management process will be implemented to facilitate the reuse of the next generation of brownfields. This approach represents an evolution of the brownfields action team concept that has been successfully applied to a number of key land recycling projects. This new process will involve the management of key projects by a team in central office working closely with the new office of Community Revitalization and Local Government Support. The objective is to provide a means for streamlining the remedial decision-making process and coordination of permits required to redevelop brownfield properties. This process will be applied to projects with strong local sponsorship. This team will also work closely with local economic development specialists and community leaders to position projects for funding and subsequent reuse. This team will provide project assistance upon request in collaboration with regional office assistant directors and selected regional project managers. The overall objective of this brownfields action team approach is to streamline and expedite the decision-making process associated with brownfield cleanup and end use permitting. This team will be led by an executive manager. Analysis of other successful state programs revealed that a small group of highly motivated and technically proficient staff is key to the success of an expedited decision-making process. Therefore, to support the work of the executive manager, a central office team is required to collaborate with project sponsors, assistant regional office directors, and regional project managers.

The assistant director of each regional office will play a key role in this team approach. Assistant directors are currently charged with permit coordination responsibilities. Those responsibilities will be broadened to include the coordination of brownfield cleanup activities. A potentially significant workload will necessitate the selection of highly motivated, facilitative technical staff to be assigned brownfield project management functions. These staff will collaborate with the assistant regional office directors and members of the central office team. The assistant regional office directors will also collaborate closely with the central office support team and executive manager., and report to the executive manager on the progress of key projects. .

2. This brownfields action team will establish matrix teams comprised of DEP central and field office staff and program clients to explore ways to reduce process burden and time. A key objective will be to develop procedures for integrating the remedial approval and permit authorization process. The brownfields action team will devise ways to facilitate project scoping and oversight. Consistency, clarity and certainty in project facilitation will provide a significant incentive for both brownfield investors and redevelopment specialists..
3. The brownfields action team will conduct workshops for community planners and revitalization coordinators to review procedures for planning and proposing projects for funding and redevelopment assistance. Brownfield task forces will be organized to provide attention to key revitalization efforts and to provide a networking opportunity for project principals and community leaders. The opportunities provided by the new DEP team process will be shared.

## Appendix 4-10

4. The brownfield action team will apply multi-site and multi-property concepts to facilitate area-wide revitalization. Both the USEPA and the State of New Jersey have demonstrated the effectiveness of scoping the cleanup and permitting of redevelopment activities within a blighted corridor or abandoned or underutilized community districts. The key sites program will also be applied to stimulate private investment within area where strong local sponsorship exists for revitalization.
5. The intensive effort required for facilitative project management will require continual evaluation of team resource needs. Decisions may be necessary to increase the size of the team through either permanent staff assignments or temporary assignments through a matrix management approach. The success of this team approach is highly dependent upon agency responsiveness to demand for redevelopment assistance.
6. The brownfields action team will as needed provide advice and assistance to regional office staff on routine projects and issues. The team will provide ongoing maintenance of a FAQ web posting to optimize overall redevelopment guidance for project principals and for staff in the regional offices.

Modifications in organizational structure and/or reporting relationships coupled with the implementation of the identified enhancements will greatly contribute to the success and timely implementation of Brownfield reuse projects.

## **Workgroups Participants**

Alfred Baldaserre, Southwest Office  
Bruce Beitler, Southeast Office  
Kenneth Bowman, Southwest Office  
Joseph Brogna, Northeast Office  
Gary Brown, RT Environmental  
Robert E. Day-Lewis, Southeast Office  
Jon Edelstein, City of Philadelphia  
Randy Farmerie, Northcentral Office  
Cydney Faul-Halsor, Northeast Office  
Thomas Fountaine, Borough of Hollidaysburg and ICMA – Northeast Region  
Mary Gattis, Lancaster County Planning Commission  
Ayman L. Ghobrial, Southeast Office  
David E. Hess, Central Office  
J. Thomas Leaver, Central Office  
Craig Lobins, Northwest Office  
Theodore Loy, Northcentral Office  
John Matviya, Southwest Office  
Thomas Mellott, Central Office  
Kimberly Morewood, Southcentral Office  
Kevin McCarty, Lawler, Matusky and Skelly, Inc.  
Lawrence Newcomer, Northcentral Office  
M. Seth Pelepko, Southeast Office  
David Perry, American Geosciences, Inc.  
Amy Randolph, Northeast Office  
Anthony Rathfon, Southcentral Office  
John Alex Reyda, Southeast Office  
Craig Robertson, Groundwater Sciences Corp.  
Patricia Romano, Southcentral Office  
Steven Shank, Southcentral Office  
James Shaw, Central Office  
Anita Stainbrook, Northwest Office  
Charles Swokel, Central Office  
Louise Thompson, Southeast Office  
Karen Unruh, Central Office (facilitator)  
Michael Welch, Northcentral  
Sharon Williams, Central Office (facilitator)  
Dawna Yannacci, Southwest Office

## **Revised NIR Form, NIR Acknowledgement Letter and Project Management Guidance**

When finalized, the NIR Form and Acknowledgement letter will be added to the Land Recycling Program website at: [www.dep.state.pa.us](http://www.dep.state.pa.us), DEP Keyword “land recycling”, “Voluntary Cleanup and Standards” link, “Forms and Lists”.

2500-FM-LRWM0019 Rev. 8/2002



**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF LAND RECYCLING AND WASTE MANAGEMENT**

### **NOTICE OF INTENT TO REMEDIATE**

Act 1995-2 requires 4 general informational items to be included in the NIR: the general location, listing of contaminants, intended use of the property, and proposed remediation measures. In addition attach a site map if available.

**Property Name** \_\_\_\_\_

**Address/Location** \_\_\_\_\_

**City** \_\_\_\_\_

**Zip Code** \_\_\_\_\_

**Municipality (if more than one, list all)** \_\_\_\_\_

**County** \_\_\_\_\_

**Latitude** \_\_\_\_\_ °(deg.) \_\_\_\_\_ '(min) \_\_\_\_\_ "(sec)"

**Longitude** \_\_\_\_\_ °(deg.) \_\_\_\_\_ '(min) \_\_\_\_\_ "(sec)"

**How Acquired:** \_\_\_\_\_ **Hor. Ref. Datum:** \_\_\_\_\_

**Provide a general description of the site contamination in plain language (e.g. fuel oil spill, historical chemical industrial area contamination), the names of any known primary contaminants to be addressed, and the intended future use of the property:**

**Provide a general description of proposed remediation measures:**

Appendix 6-2

**Will remediation be to a site-specific standard \_\_\_ or as a special industrial area \_\_\_? If so, the municipality or municipalities must be provided 30-day comment period.**

**Remediator/Property Owner/Consultant. For each of these recipients of the approval of the final report, complete form below.**

<b>Remediator</b>
Contact Person:
Relationship to site (e.g. owner, remediator, participating in cleanup, consultant):
Phone Number:
Company Name:
Address:
Email Address:
<b>Property Owner</b>
Contact Person:
Relationship to site (e.g. owner, remediator, participating in cleanup, consultant):
Phone Number:
Company Name:
Address:
Email Address:
<b>Consultant</b>
Contact Person:
Relationship to site (e.g. owner, remediator, participating in cleanup, consultant):
Phone Number:
Company Name:
Address:
Email Address:

Preparer of Notice of Intent to Remediate:

Name:

Title:

Address:

Telephone:

Email Address:

**Email Image File of Site Map showing property lines and general area of site(s) to be remediated to:  
landrecycling@state.pa.us**



## NOTICE OF INTENT TO REMEDIATE INSTRUCTIONS

These instructions pertain to the Notice of Intent to Remediate (NIR). The NIR is a fill-in-the blank; check block, and brief narrative form. Complete the form to the extent that the particular information requested is known. Additional information may be attached with the NIR submission if desired. The procedures for submission of the NIR and notification requirements are detailed in the Land Recycling Technical Guidance Manual. You are encouraged to use the technical guidance provided in this manual when conducting site assessments.

### **Property Name**

This is the name the property, where the site(s) is located and is known by, especially if designated so in a permit or official records. If there is more than one location with a similar name, more specific information should be included. If an existing name is not available, the site owners name or name of the person seeking the release of liability protection can be used.

### **Address/Location**

Street address of the property. Provide the mailing address if different than the street address. If the street address is not available, provide the location of the property by road name with directions and distances from an established reference point.

### **Municipality**

Name of all municipalities in which the site is located.

### **County**

Name of county in which the site is located.

### **Latitude and Longitude**

Indicate the latitude and longitude from the approximate center of the site. Indicate the latitude and longitude in degrees, minutes, and seconds. State method used to make location determination (the reference datum used in determining latitude and longitude coordinates) If more than one site is listed in the NIR and locations are not in the immediate vicinity, list separate latitude and longitudes.

### **General description**

In a narrative, provide information concerning the site contamination, the names of any known primary contaminants to be addressed by the remediation, and the intended future use of the property.

### **General description of proposed remediation measures**

In a narrative, provide information concerning the proposed remediation measures to be performed.

### **Site-specific standard or Special Industrial Area remediation**

If known at the time of submission of the NIR, indicate if the site remediation will be to a site-specific standard or as a special industrial area. The municipality must be given a 30-day comment period if the remediation is to a site-specific standard or as a special industrial area remediation.

### **Remediator/Property Owner/Consultant**

For each of these categories provide the applicant name, site relationship (owner, remediator, consultant), phone number, company name, and address. These persons will be recipients of the approval of the final report.

### **Preparer of Notice of Intent to Remediate**

## Appendix 6-4

Provide the name, title, address, and phone number of the person preparing the NIR. Indicate preparer name even if same as one listed above.

Submit an image file of the site showing property lines and general area of site(s) location to be remediated.

Email to: [landrecycling@state.pa.us](mailto:landrecycling@state.pa.us)

Appendix 6-5

(1 - NAME AND ADDRESS)

Re: ECP – Special Projects – Act 2  
Receipt of Background/SWHS NIR  
(2 - SITE NAME)  
ID No. ( 3 )  
(4 - SITE ADDRESS)  
(4A - MUNICIPALITY)  
(5 - COUNTY) County

Dear (6 - SALUTATION):

This letter acknowledges receipt of your Notice of Intent to Remediate (NIR) on (7 - DATE), pertaining to the subject site and submitted in accordance with the Land Recycling and Environmental Remediation Standards Act (Act 2

The procedures set forth in Act 2 must be followed in order for your site to qualify for the liability protection provided by the Act. Please ensure that proper municipal and public notification of your Notice of Intent to Remediate submission has been satisfied. If in the future you choose to utilize either the site-specific standard or special industrial area cleanup provisions, you will need to resubmit the NIR to follow the requirements relating to public involvement plan coordination with the local municipality. I will be happy to advise you on this issue.

Upon completion of remediation, please submit your final report to the Department accompanied by the required fee and documentation verifying compliance with the public notification requirements. Please take note that if your final report demonstrates attainment of a selected standard within 90 days of the contaminant release, no public or municipal notifications are necessary.

I am the case manager assigned to your project and look forward to working with you towards the remediation of your site. I will be calling you in the coming days to introduce myself, discuss your tentative schedule for this project and to suggest a frame work for my involvement to provide advise, intermediate project review, address problems that may occur and assist in the goal of making your project a success. In part, we measure our success as public servants based on the ultimate success of projects such as yours. Our department has resources to assist the remediator in financial, transactional and intra and inter state agency coordination of activities related to your project. We encourage frequent contact between your representatives and our staff throughout this process. Please note the web address below, as a resource for technical and program information:

[http://www.dep.state.pa.us/dep/deputate/airwaste/wm/landrecy/Vol\\_Clnup.htm](http://www.dep.state.pa.us/dep/deputate/airwaste/wm/landrecy/Vol_Clnup.htm).

On this web page is a link to FORMS AND LISTS that includes a link to the on-line final report summary form, which we ask that you complete on-line at the time of your final report submittal. The forms and lists link also includes optional checklists helpful to assuring that your reports are complete before submittal. Whether or not you choose to use the checklists, our office will perform a technical completeness check (based on the checklists), when the final report is submitted.

If you have any questions or need further clarifications of our procedures, please contact me at (10 - TELEPHONE NUMBER, Email address).

Sincerely,

Appendix 6-6

(11 - NAME,  
Case Manager)

cc: (12 - PROPERTY OWNER, IF DIFFERENT FROM ADDRESSEE)  
(13 - REMEDIATOR IF DIFFERENT FROM ADDRESSEE  
AND PROPERTY  
OWNER)  
(14 - MUNICIPALITY)  
(15 - ECP SECTION CHIEF)  
(16 - ECP case mgr)  
File  
(WP)

Appendix 6-7

bcc: Ms. Tremont  
Mr. Gerdemann  
(WP)

1

I have enclosed a one-page form entitled "Transmittal Sheet." **PLEASE ATTACH A COPY OF THIS TRANSMITTAL SHEET WITH THE IDENTIFICATION NUMBER REFERENCED ABOVE TO THE FINAL REPORT YOU SUBMIT FOR THIS PROJECT.**

***Recommended minimum Project Management steps for interaction between the DEP case manager and the environmental consultant of an Act 2 site.***

1. Acknowledgement letter of the NIR is sent, identifying the case manager assigned. (Mgmt policy to prioritize staff resources first to NIR sites)
2. Phone call by the case manager within 5 days of sending the acknowledgement letter to the consultant to cover the following items
  - Advise them on general voluntary cleanup program issues and procedures
  - Discuss the tentative project schedule including milestones
  - Discuss the framework for the case manager to be involved in the process (case managers that have worked with a consultant before may need little involvement, and work with consultants having only 1 or 2 Act 2 submittals may deserve more interaction)
3. Setup and conduct site visit
4. Scheduled (e.g. monthly) routine phone/email with case manager and the consultant to discuss project status, even if it is brief.
5. Milestone for case manager to provide general concurrence on the proposed **concept for site characterization. Concurrence can be via letter, e-mail or a telephone conversation.**
6. Milestone for case manager to provide tentative concurrence on the completeness of the site characterization work **via letter, e-mail or a telephone conversation.**
7. Acknowledgement letter of the final report submission.
8. Milestone for administrative and technical completeness **pursuant to a review of the checklist** via an email **to or telephone conversation with** the consultant within 2 weeks of the final report submittal.
9. Via the scheduled calls/emails in (4), clarify information in the report and deficiencies as they are identified.
10. Milestone- **Just prior to (11)-** The case manager (and Section chief as needed) to call the consultant and advise them as the approvable or non-approvable status of the report and discuss options for deficiency letter with resubmission **in accordance with** an agreed upon schedule w/o fees, or report denial.
11. Approve the report or send deficiency letter or deny the report.
12. If scheduled progress phone calls/emails indicate that the project has been mothballed, **the case is closed on the eFACTS database as an Act 2 project and an appropriate course of action to address known contamination is developed by management.**

NOTES:

⇒ Letters of concurrence are good faith statement by the case manager that the work described is consistent with their understanding of what is required in an acceptable Act 2 site characterization. Because it is only a good faith statement, deficiencies may still be identified in the final report if extenuating circumstances arise.

⇒ Determination of *technical completeness* is simply an acknowledgement that the report addresses all items in the department's checklist on the web (e.g. "all the pieces are there").

## **Checklist**

*This is a preliminary checklist for completeness review of the NIR and Final Report. If any appropriate points are missing or obviously insufficient, notify applicant promptly before doing the complete review. The full checklist may still be used for the complete review of the submission.*

### **Statewide Health Standard**

#### **Notice of Intent to Remediate**

1. Site name and location information, including latitude and longitude
2. Description of site and intended future use of property
3. Indicate if remediation will be to site-specific standard or special industrial area remediation
4. Contact information
  - a. Remediator
  - b. Owner
  - c. Consultant
5. Site map

#### **Final Report**

1. Transmittal sheet
2. Notification
  - a. Proof of publication of NIR newspaper notice
  - b. Proof of submission of NIR to municipality
  - c. Proof of publication of final report newspaper notice
  - d. Proof of submission of final report to municipality
  - e. Fees
3. Final Report Summary per on-line format
4. Final Report
  - a. Site name and location information, including municipality, county, and latitude and longitude
  - b. Site characterization
    - i. Ecological screen
    - ii. Vapor screen
  - c. Fate and Transport Analysis
  - d. Laboratory analytical results
  - e. Remediation description
  - f. List of contaminants
  - g. Attainment demonstration
    - i. Residential or Non-residential
    - ii. Non-use aquifer
    - iii. Groundwater
    - iv. Soils

Appendix 7-2

- v. If applicable
  - 1. Surface water requirements
  - 2. Air Quality requirements
- h. Narrative of site and remediation
  - i. History of site and land use
  - ii. Use of regulated substances on site
  - iii. Remediation performed
  - iv. Volume of contaminants remediated
- i. Post remediation care plan
- j. Contact information
  - i. Remediator
  - ii. Owner
  - i. Consultant
- k. Attachments, including
  - i. Analytical results,
  - ii. As applicable:
    - 1. Tables,
    - 2. Maps and
    - 3. Figures
- l. Signatures

Preparer name \_\_\_\_\_ Preparer signature

\_\_\_\_\_  
Date \_\_\_\_\_

Appendix 8-1

This information in the following table was taken from “*An Analysis of State Superfund Programs: 50-State Study, 2001 Update*”, published in 2002 by the Environmental Law Institute. An electronic copy of this report is available at [www.eli.org](http://www.eli.org), “Publications” link, “2002 Research Reports” link.

**Table IV-16: Voluntary Cleanup Programs**

Reg.	State	Start Year	State Funded by	Fee	Eligibility	Incentives
1	CT	1995	Fees	\$2,000 for 133x, no fee for 133y	Sites that are: owned by a municipality; defined as establishments; contained on the inventory of hazardous waste disposal sites; located in a GA or GAA groundwater area. The other State program may be utilized by owners of sites where there have been spills and the property is located in an area with a GB or GC groundwater classification and the property is not subject to any other order.	133x program: ECAF fee can be applied toward the fee required by the property transfer program, for the transfer of any parcel for which an ECAG has been submitted within three years of the transfer; 133y program: approval of a final remedial action report allows participant to file a Property Transfer Program Form II.
	ME	1993	Fees	\$500 initially; bill for additional costs	Purchasers, lenders, sellers, and PRPs for hazardous substance or petroleum sites. Some RCRA regulated owners/operators are not eligible.	Protections from state enforcement actions for those who remediate "discovered" contamination.
	MA	1993	Permit and compliance fees	Varies	All sites not requiring direct state oversight (Tier 1A).	Streamlined cleanup process, no waiting period, clear endpoints.
	NH	1981	State Hazardous Waste Cleanup Fund, Federal VCP grant		Any hazardous waste site.	
	RI	1996	State General Revenues	\$1,000	All sites except NPL and LUST sites.	A "Bona fide Prospective Purchaser" (non-PRPs) can enter into a settlement agreement with the State for covenant not to sue protection.
	VT					
2	NJ	1992	Direct billing for staff time.	Direct billing rate (employee's salary and benefits, no indirect costs)	Municipalities, counties, developers, and other private and public parties for any type of hazardous substance site. Parties regulated by other cleanup laws are not eligible.	NFA letters with covenant not to sue language applies to NRPs and provides liability relief protection; a loan and grant program has provided more than \$70 million for various under a MOA.
	NY	1994	Fees for cleanup costs and state oversight	No application fee	All sites over which the Department has enforcement jurisdiction and not Class 1 NYS Registry sites or EPA NPL sites.	Protection from future liability for contaminants addressed.
	PR	2000				Liability relief for prospective purchasers and lenders through letters, certificates and/or agreements.
3	DE	1993	Fees	\$5,000 annual deposit, additional fees for oversight costs as the cleanup progresses	All sites except those sites under enforcement actions, RCRA corrective action, or that pose an imminent threat to public health or the environment.	Certificate of completion of remedy (all participants), release from liability (prospective purchasers).
	DC	2000	Fees	\$10,000	Non-responsible parties for brownfields or any contaminated property not on the NPL and not subject to current cleanup action by EPA or EHA.	Credits to offset real property and business franchise taxes.
	MD	1997	Fees	\$6,000	Responsible persons and inculpable persons for any site contaminated or perceived to be contaminated, other than NPL sites, oil sites, sites under active enforcement, or TSD facilities.	Prospective purchasers receive "inculpable" persons designation, relieving them from liability.

Appendix 8-2

Reg.	State	Start Year	State Funded by	Fee	Eligibility	Incentives
3	PA	1995	Industrial Land Recycling Fund, State appropriations, federal funds, fees and fines	\$250 for required plans and reports, \$500 for site-specific standard final report	All sites not regulated by another Act.	Relief of liability for contamination identified and remediated, financial assistance, standard procedures, and cleanup standards.
	VA	1997	Federal grant money and registration fees.	1% of the remediation costs, not to exceed \$5,000	Owners and operators of contaminated sites that are not mandated under a Federal or State regulatory program. NPL, enforcement, RCRA, and UST sites are not eligible.	No Further Action–Certificate of Satisfactory Completion of Remediation issued, provides immunity from enforcement action under State law.
	WV	1996	Flat fees	\$1,000, \$3,000, or \$5,000 depending on the age of the site and the SIC code	All sites not created by gross negligence or willful misconduct, except for NPL sites or those with unilateral orders.	Predictability, the Voluntary Remediation Agreement, and a Certificate of Completion.
4	AL	2001	Fees and reimbursement of oversight costs	TBD	Owners, operators, and prospective purchasers for hazardous substance sites and non-UST petroleum products not including NPL sites, RCRA TSD units, and sites under cleanup order.	Limited liability protection for owner/operators; broad liability protection for prospective purchasers, lenders, clean-hands parties; other incentives to be developed.
	FL		General budget	No fee	Any non-NPL site.	Tax credits for drycleaners
	GA	1996		No fee	Prospective purchasers of any Hazardous Site Inventory sites are eligible; responsible parties for Hazardous Site Inventory sites are ineligible.	Limitation on liability for third party claims for damages or EPD claims for cost recovery.
	KY	2001	Fees (application and oversight)	Based on size of property and cleanup oversight	All hazardous substance sites that are not Permitted Radioactive Facilities, NPL, RCRA, enforcement action or environment emergency sites.	Covenant not to sue, time limits on state review process.
	MS	1997	Fees	\$2,000 initially, \$75/hour additional, \$500 is non-refundable for VCP only	All hazardous substance sites that are not on the NPL, proposed NPL, or RCRA Corrective Action sites.	Liability protection from further cleanup beyond the established base for Brownfields, NFA Letter for Voluntary Evaluation Program participants.
	NC	1987	Fees	VCP \$500 fee (for a NFA),	All (Non-NPL and NPL).	Remedial action costs for volunteers are capped at \$3M
	SC	1988	Oversight fees for work under VCP contract	n/a	All responsible and non-responsible parties for sites not contaminated by petroleum, on the NPL, or under enforcement action.	RPs are provided with a covenant not to sue; NRPs are provided with State superfund liability protection and contribution protection.
	TN	1994	Fees and cost recovery	\$5,000	All inactive hazardous substance sites with a release or potential for a release.	Site is not listed, no lien, completion letter issued, no specific liability protection.
5	IL	1986	Fees	Hourly fee based on time charges	All sites that are not Superfund, RCRA, LUST sites, or sites under enforcement action or federal order.	No Further Remediation Letter, release from further responsibilities for remedial action.

## Appendix 8-3

Reg.	State	Start Year	State Funded by	Fee	Eligibility	Incentives
5	IN	1993	Fees	\$1,000 and additional state costs.	All parties and sites except those that pose an imminent threat or are currently subject to enforcement action.	Certificate of completion (from Agency) and covenant not to sue (from Governor's Office).
	MI	1994		\$750 for review	All except for parties subject to administrative order or judicial decree.	New owners and operators may be exempted from liability for existing contamination; financial incentives include grants, loans, tax increment financing, tax credits and tax abatements.
	MN	1988	Fees for service	Approx. \$90/hr	Voluntary parties for contaminated sites that will be developed.	Superfund liability assurances.
	OH	1994	Program fees, federal agents, State general revenue funds		Property owners and operators, PRPs, developers, or municipalities for any site that except those covered under another program are eligible.	Covenant not to sue releases volunteer from State Civil liability; tax incentives; low interest loans available through State's water pollution control RLF for brownfield properties.
	WI	1994	Fees and Federal funds	\$250 application and \$70/ hr oversight	Any party, including responsible parties for hazardous waste sites, including underground storage tanks.	Exemption from future liability under state laws, certificate of completion.
6	AR	1995	Federal grants, State remedial action trust fund	Specific fees not yet formalized.	All sites with industrial, commercial or agricultural activity for which no responsible party can reasonably be pursued or if determined to be in the best interest of citizens to promote redevelopment while continuing to pursue the responsible parties. Ineligible sites include: sites on, or considered for the NPL; RCRA permit sites; sites operating under Interim Status authority AR regulations; and sites subject to a CERCLA or RCRA order.	Non-responsible parties may be allowed to meet alternative cleanup requirements if they acquire title after the nature of conditions at the site have been disclosed and commit to investigate, remediate as necessary, and limit the property to a specified future land use; future liability is limited to contamination arising as a result of the new owner's activities or operations on the site.
	LA	1995 (stat), 2001 (regs)	Initially some federal assistance and fees for participation	\$500 application fee and direct costs for review and oversight	All sites that are not listed or proposed on the NPL, permitted hazardous waste management units (HWMUs), Trust Fund eligible USTs, or sites with pending unresolved federal environmental enforcement actions.	Release of liability for costs of cleanup from historical contamination, certificate of completion.
	NM	1998	Grants and fees	\$1,000 application fee, \$65 per hour oversight fee	All sites not under an enforcement action such as RCRA and all parties that are not regulated under other cleanup laws.	Liability protection for lenders; completion certificate; covenant not to sue from State; enforcement shield.
	OK	1988	Fees for participation and oversight costs		All sites; however, if another program has jurisdiction (i.e., TSCA, LUST) they refer the applicant.	Letter stating that work is complete; tax incentive; financial incentive; low interest loans to municipalities; for RCRA sites, the MOA documents EPA's intention to reevaluate the site's priority status.
	TX	1995	Application fee with subsequent direct billing	\$1,000 initially and hourly billing at \$95/hour	All sites not under a permit order.	All non-responsible parties are released from liability to the state for any past contamination upon issuance of certificate of completion; parties are protected from enforcement while in VCP compliance.

Appendix 8-4

Reg.	State	Start Year	State Funded by	Fee	Eligibility	Incentives
7	IA	1997 (stat), 1999 (regs)	Applicants cover all costs on a per hour basis	Up to \$7,500 per site, additional Expenses paid by Hazardous Waste Remedial Fund	All non-NPL sites.	NFA letter issued, a particular benefit for prospective purchasers and new property owners.
	KS	1996	Reimbursement and a nonrefundable application fee	\$200	All sites that are not RCRA, NPL, or enforcement sites; all low and medium risk contaminated sites.	NFA letter and limited oversight is required until cleanup is completed.
	MO	1994	Fees and appropriations	\$200 application fee and up to a \$5,000 deposit	All non-NPL and NPL-caliber sites and non-RCRA sites.	NFA letter, MOA with EPA.
	NE	1995	Fees for application and participation	\$5,000 application fee; \$5,000 participation fee	All types of sites.	NFA letter.
8	CO	1994	Fees	\$2,000	All property owners for sites that are not RCRA, LUST, or NPL.	NFA letter, protection from Superfund under MOA with EPA, income tax credit.
	MT	1995	Federal grant, EQPF and cost recovery are mandatory		All sites except RCRA, and NPL, LUST, sites subject to agency order.	Closure letter and enforcement stays
	ND					
	SD					
	UT	1997	Participants pay state oversight costs	\$2,000 application fee plus actual costs	All sites except NPL, RCRA Corrective Action, and sites with pending enforcement actions.	Participants who are not PRP's may be eligible for a liability release.
8	WY	2000	General funds fees	\$35/hour	All sites except NPL, commercial waste facilities, UST/LUST, radioactive waste storage facilities, abandoned mine lands, repeat violators, and sites with a unilateral corrective action order.	NFA letter, certificate of completion, covenant not to sue, potentially land use based soil standards if use control area is designated by local government.
9	AZ	1997	Application fees and reimbursement	\$110 per hour	All soil and/or groundwater contaminated sites. Sites that are under enforcement action by another remediation program are ineligible.	Expedited process, single point of contact for projects involving more than one program.
	CA	1993	Reimbursement of oversight fees		All sites except federal Superfund, Military, and LUST sites, or those outside of the State's jurisdiction.	Participants have more control over cleanup timing.
	HI	1997	Voluntary Response Action Account within the environmental revolving fund and State General Fund	\$1,000 non-refundable application fee and a deposit of up to \$5,000 to initiate a site-specific account.	All releases or threats of releases for which the director is authorized to respond. Ineligible sites include: listed or proposed NPL sites; sites with pending enforcement actions; RCRA sites; sites that pose a substantial threat to human health, the environment, or natural resources; and sites where there is significant public interest.	A letter of completion conferring exemption from future liability.

## Appendix 8-5

Reg.	State	Start Year	State Funded by	Fee	Eligibility	Incentives
9	NV	2000	Fees	Application fee, direct and indirect costs	All sites of a probable hazardous substance release except for those sites listed or proposed listed on the NPL or under investigation.	Parties with a Certificate of Completion are not responsible with respect to the release of the hazardous substance.
10	AK	1996	Operating budget	Cost recovery	Low-medium priority sites using the State's hazard ranking model (soil or groundwater contamination by petroleum or inorganic materials). Sites contaminated by solvents are not eligible.	Streamlined oversight.
	ID	1996	Private parties conducting clean up pay for State	\$250 application fee, \$2,500 refundable deposit	All sites except those regulated for cleanup under federal regulations.	Tax incentives and covenant not to sue.
	OR	1991	Cost-recovery	\$5,000 initially, plus additional costs	All non-NPL and non-enforcement sites are eligible for Voluntary Interactive Pathway; low and medium sites for Independent Cleanup Pathway.	NFA letter with limited "reopeners"; no MOA with EPA; Prospective Purchaser Agreement (PPA) available to a limited number of sites offering "substantial public benefit".
	WA	1995	Fees	\$500 deposit plus hourly support costs	All sites not under discussion with the department for a formal oversight site agreement or on the NPL.	Expedited cleanup; a property owner may conduct an independent cleanup with technical assistance from the department with a fee; the department will issue a NFA letter or identify the necessary work.