

Overview of the Land Recycling Program

The Need for Land Recycling

Past environmental policies in Pennsylvania disincentivized the private cleanup of old industrial sites, sometimes referred to as brownfields. Both state and federal cleanup laws can impose full responsibility for a site cleanup on new buyers, despite having no involvement in the contamination of the property. Pennsylvania's policies promoted never-ending liability and discouraged private firms, lenders, and even public redevelopment authorities from getting involved.

The positive aspects of an old industrial site, such as its location and available infrastructure, were frequently negated by the threat of huge, unknown cost and never-ending liability for an environmental cleanup of the site. Lenders were reluctant to invest in the purchase of such property if they become exposed to perpetual liability. Innocent buyers particularly shunned sites where those persons who were responsible for causing the contamination were bankrupt or couldn't be identified. Too often, developers have chosen virgin properties as an alternative to old industrial sites with contamination problems. This has led to urban sprawl and the resulting loss of farmland, forests, and open space across Pennsylvania.

The Land Recycling Program encourages the recycling and redevelopment of old industrial sites. It sets standards, by law, that are protective of human health and the environment and which consider future use. It provides potential developers with clear cleanup standards based on risk, not a moving target in a negotiated agreement, and provides an end to liability when that cleanup standard is achieved.

These changes made many old industrial sites more attractive to potential developers. As a result, many sites have been and will be converted from eyesores to productive use, helping many of the commonwealth's urban and rural municipalities to provide jobs through economic growth.

Benefits of Land Recycling

- Encourages private-sector cleanups and the productive use of vacant industrial sites.
- Stimulates economic growth, particularly in urban areas.
- Encourages local government partnerships with business and saves the commonwealth millions of dollars in cleanup costs.
- Reduces the pressure to develop prime farmland, open areas, and forests.

Regulatory Basis

The Land Recycling Program includes five Acts: Acts 2, 3, and 4 were signed into law on May 19, 1995. Act 6 amended Act 4 and became effective in May 2000. Act 68 of 2007 was signed into law on December 18, 2007.

Act 2 of 1995 is the Land Recycling and Environmental Remediation Standards Act. This act is the primary law establishing the Land Recycling Program. It creates a realistic framework for setting cleanup standards, provides special incentives for developing abandoned sites, releases responsible parties from liability when cleanup standards are met, sets deadlines for Department of Environmental Protection (DEP) action, and provides funding for environmental studies and cleanups.

Act 3 of 1995 is the Economic Development Agency, Fiduciary, and Lender Environmental Liability Protection Act. This act limits the environmental liability of those involved in redeveloping and financing a recycled industrial site.

Act 4 of 1995 is the Industrial Sites Environmental Assessment Act. This act provides up to \$2 million for environmental assessments in certain communities and for cleanups in certain cities through the Department of Community and Economic Development (DCED).

Act 6 of 2000 is the Industrial Sites Environmental Assessment Act. This act expands the grant program under Act 4 of 1995 and provides for performance-based loans.

Act 68 of 2007 is the Uniform Environmental Covenants Act. This act provides a standardized process for creating, documenting, and assuring the enforceability of activity and use limitations on contaminated sites.

Basic Elements of the Land Recycling Program

The four cornerstones of the Land Recycling Program are uniform cleanup standards based on health and environmental risks, standardized review procedures, release from liability, and financial assistance.

- **Uniform cleanup standards**

Act 2 establishes environmental remediation standards to provide a uniform framework for cleanups. The standards established under Act 2 are used for most voluntary and mandatory cleanups conducted in Pennsylvania. The three types of cleanups are background, statewide health, and site-specific.

- **Standardized review procedures**

Act 2 describes the submission and review procedures used at sites using each of the three types of cleanup standards, thus providing a uniform process for all sites statewide. Uniformity makes it easier for companies and consultants to prepare submissions and follow through the steps necessary to remediate a site.

- **State releases from liability and MOA with EPA**

Act 2 provides releases from state liability for owners or developers of a site that has been remediated according to the standards and procedures in the Act. Act 3 extends liability protection to financiers, such as economic development agencies, lenders, and fiduciaries (fiduciaries are those who act as a trustee, executor, or administrator for the benefit of another person). These provisions are intended to reduce the liability concerns that may inhibit involvement with contaminated or abandoned sites. In April 2004, DEP and the U.S. Environmental Protection Agency (EPA) entered into a Memorandum of Agreement (MOA) that clarifies how sites remediated under Pennsylvania's brownfields program also may satisfy requirements for three key federal laws: the Resource Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response Compensation Liability Act (CERCLA), and the Toxic Substances Control Act (TSCA). The framework outlined in the MOA provides the client with procedures for coordinating cleanups under Act 2 with federal cleanup requirements under RCRA, CERCLA, and TSCA, where applicable.

- **Financial assistance**

Act 2 and Act 4 provide funds that have been combined into the Industrial Sites Reuse Program, which is designed to help innocent persons conduct voluntary cleanups. DCED administers the program providing grants or low-interest loans to cover up to 75 percent of the cost of completing an environmental study and implementing a cleanup. Funds may be used by eligible applicants for Phase I, II, and III environmental assessments and remediation of hazardous substances.

Additional sources of financial assistance for the remediation and/or redevelopment of brownfields are also available through DCED (www.newpa.com or www.inventpa.com).

- PENNVEST offers a brownfields remediation low-interest loan program that helps facilitate the sale and reuse of industrial and commercial properties in the commonwealth. The remediation activities on contaminated properties under this loan program must be related to a water quality benefit, which can include the prevention of contamination. The PENNVEST Brownfield remediation funding initiative will provide the following benefits: improve local surface and groundwater quality; encourage reuse of property in urban areas rather than suburban sprawl into surrounding rural areas; help revitalize the economies of local communities; create employment opportunities in areas of low income and/or high unemployment; increase local tax bases; facilitate the use or reuse of existing infrastructure and facilities located in the proximity of the sites; and facilitate the creation, preservation, or addition to parks, greenways, open spaces, and other recreational properties. For more information, visit www.pennvest.pa.gov/Information/Funding-Programs/Pages/Non-Point-Source.aspx.

Relationship to Other State and Federal Programs

- With few exceptions, the cleanup standards under Act 2 apply to all cleanups.
- State and local permits are not required for remediation activities conducted under Act 2 if they are undertaken entirely on the site unless the federal government requires that permits be issued in federally funded state programs.
- The cleanup standards developed under Act 2 apply to Hazardous Sites Cleanup Act (HSCA) sites, although the HSCA procedures for remedy selection will continue for listed sites.

Contact Information

For information concerning this initiative and the Pennsylvania Land Recycling Program, call 717-783-1566. For more information, visit www.dep.pa.gov, under Businesses > Land > Land Recycling. Questions and comments should be sent to landrecycling@pa.gov.

Environmental Cleanup Programs	
<p>Southeast Regional Office 2 East Main St. Norristown, PA 19401-4915 Phone: 484-250-5960 Fax: 484-250-5971</p> <p>Counties: Bucks, Chester, Delaware, Montgomery, and Philadelphia</p>	<p>Northeast Regional Office 2 Public Square Wilkes-Barre, PA 18701-1915 Phone: 570-826-2511 Fax: 570-820-4907</p> <p>Counties: Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne, and Wyoming</p>
<p>South-central Regional Office 909 Elmerton Ave. Harrisburg, PA 17110-8200 Phone: 717-705-4705 Fax: 717-705-4830</p> <p>Counties: Adams, Bedford, Berks, Blair, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry, and York</p>	<p>North-central Regional Office 208 West Third St., Suite 101 Williamsport, PA 17701-6448 Phone: 570-321-6525 Fax: 570-327-3420</p> <p>Counties: Bradford, Cameron, Clearfield, Centre, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga, and Union</p>
<p>Southwest Regional Office 400 Waterfront Drive Pittsburgh, PA 15222-4725 Phone: 412-442-4091 Fax: 412-442-4328</p> <p>Counties: Allegheny, Beaver, Cambria, Fayette, Greene, Somerset, Washington, and Westmoreland</p>	<p>Northwest Regional Office 230 Chestnut St. Meadville, PA 16335-3481 Phone: 814-332-6648 Fax: 814-332-6121</p> <p>Counties: Armstrong, Butler, Clarion, Crawford, Elk, Erie, Forest, Indiana, Jefferson, Lawrence, McKean, Mercer, Venango, and Warren</p>