

2022 -- S 2447

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO HEALTH AND SAFETY -- INDUSTRIAL PROPERTY REMEDIATION
AND REUSE ACT

Introduced By: Senators Felag, DiPalma, DiMario, and McCaffrey

Date Introduced: March 01, 2022

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-19.14-3 of the General Laws in Chapter 23-19.14 entitled
2 "Industrial Property Remediation and Reuse Act" is hereby amended to read as follows:

3 **23-19.14-3. Definitions.**

4 (a) "40 CFR" means that section or subsection of the code of federal regulations, title 40,
5 protection of environment, chapter 1, environmental protection agency. References to the
6 administrator, appearing therein, shall be interpreted as referring to the director of the department
7 of environmental management.

8 (b) "Bona fide prospective purchaser" means a person who intends to purchase a
9 contaminated property, who has documented the intent to purchase the property in writing, and
10 who has offered to pay fair market value for the property in the contaminated state. For purposes
11 of this chapter, any former owner, former operator, or other person who is otherwise a responsible
12 party or any person who had more than ten percent (10%) equitable or other legal interest in the
13 site or any of the operations related to the contamination cannot be considered as a bona fide
14 prospective purchaser. Once a purchaser has certified their status as a bona fide prospective
15 purchaser to the department and the department has acknowledged receipt of such certification, a
16 purchaser may maintain that status for up to one year following purchase of the property, unless it
17 is subsequently found that the purchaser did not meet the criteria for a bona fide prospective
18 purchaser as outlined in this section. If the department finds that substantial progress has been made

1 in investigating conditions of the site and/or meeting the requirements for a remedial decision letter,
2 such status may be renewed by the department for a specified period of time not to exceed one year
3 for each renewal.

4 (c) "Hazardous materials" means any material or combination or mixture of materials
5 containing any hazardous substance in an amount and concentration such that when released into
6 the environment, that material can be shown to present a significant potential to cause an acute or
7 chronic adverse effect on human health or the environment. Hazardous material shall also include
8 any material that contains a hazardous waste. Hazardous material does not include petroleum for
9 the purposes of this chapter.

10 (d) "Hazardous substances" means any substance designated as hazardous pursuant to 40
11 CFR 300.5, as is or as amended. Hazardous substance shall not include, for the purposes of this
12 chapter, asbestos or radioactive materials. [Hazardous substances shall include per- and](#)
13 [polyfluoroalkyl substances.](#)

14 (e) "Hazardous wastes" means any material defined as hazardous waste pursuant to chapter
15 19.1 of this title, and the regulations promulgated under chapter 19.1 of this title.

16 (f) "Operator" means the person responsible for the operation of the activities at the site.

17 (g)(1) "Owner" means the person who owns the site or part of the site.

18 (2) In the case of a receiver, the superior court supervising the receiver shall have
19 jurisdiction to determine the nature and extent of the receiver's obligations to comply with the
20 provisions of this chapter. Any obligation to comply with the provisions of this chapter shall be
21 binding on a receiver solely in his or her fiduciary capacity.

22 (h) "Person" means an individual, trust, firm, joint stock company, corporation (including
23 a government corporation), partnership, association, the federal government or any agency or
24 subdivision of the federal government, a state, municipality, commission, political subdivision of
25 a state, or any interstate body.

26 (i) "Petroleum" means any virgin petroleum product including the following products:

27 (1) Unused distillate and residual oil, including but not limited to gasoline, aviation fuels,
28 kerosene, diesel, and heating oils.

29 (2) Unused crankcase oil, lubricants, hydraulic oils, penetrant oils, tramp oils, quench oils,
30 and other industrial oils.

31 (j)(1) "Release" shall be defined by 40 CFR 300.5 for purposes of this chapter, but shall
32 also exclude any release from a process, activity, or source area allowed under a permit, license, or
33 approval issued after January 1, 1987 by any regulatory process or legal authority or any release of
34 hazardous materials solely derived from common household materials and occurring at the

1 household.

2 (2) For purposes of this chapter, release also includes an actual or potential threat of release.

3 (k) "Remedial or response action" means those actions taken to rectify the effects of a
4 release of hazardous material, and/or petroleum so that it does not cause a substantial danger to
5 present or future public health or welfare, or the environment.

6 (l) "Remediation" means the act of implementing, operating, and maintaining, a remedy,
7 remedial action or response action.

8 (m) "Responsible party" has the meaning attributed to it by the provisions of § 23-19.14-6
9 or 23-19.14-6.1.

10 (n) "Site" means all contiguous land, structures, and other appurtenances and
11 improvements on the land contaminated by the use, storage, release, or disposal of hazardous
12 material including the extent of contamination and all suitable areas in very close proximity to the
13 contamination where it will be necessary to implement or conduct any required investigation or
14 remedial action.

15 (o) "All appropriate inquiries" means an environmental due diligence process for assessing
16 a property for presence or potential presence of contamination, in accordance with requirements
17 established by the department of environmental management that are not inconsistent with the
18 provisions of 40 CFR 312 establishing federal standards for all appropriate inquiries.

19 (p) "Letter of Compliance" means a formal, written communication from the department
20 signifying that the remedial action has been satisfactorily completed and the objectives of
21 environmental clean-up, pursuant to § 23-19.14-4 have been met.

22 (q) "Remedial Decision Letter" means a formal, written communication from the
23 department that approves a site investigation, identifies the preferred remedial alternative and
24 authorizes the development of a remedial action work plan in order to achieve the objectives of
25 environmental clean-up.

26 (r) "Per- and polyfluoroalkyl substances" means perfluorooctanoic acid (PFOA),
27 perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic
28 acid (PFNA), and perfluoroheptanoic acid (PFHpA), and perfluorodecanoic acid (PFDA).

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- INDUSTRIAL PROPERTY REMEDIATION
AND REUSE ACT

1 This act would define and provide that "per- and polyfluoroalkyl substances" (PFAS) be
2 included within the definition of "hazardous substances" for purposes of industrial property
3 remediation and reuse.

4 This act would take effect upon passage.

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