



# STATE BROWNFIELDS AND VOLUNTARY RESPONSE PROGRAMS 2013



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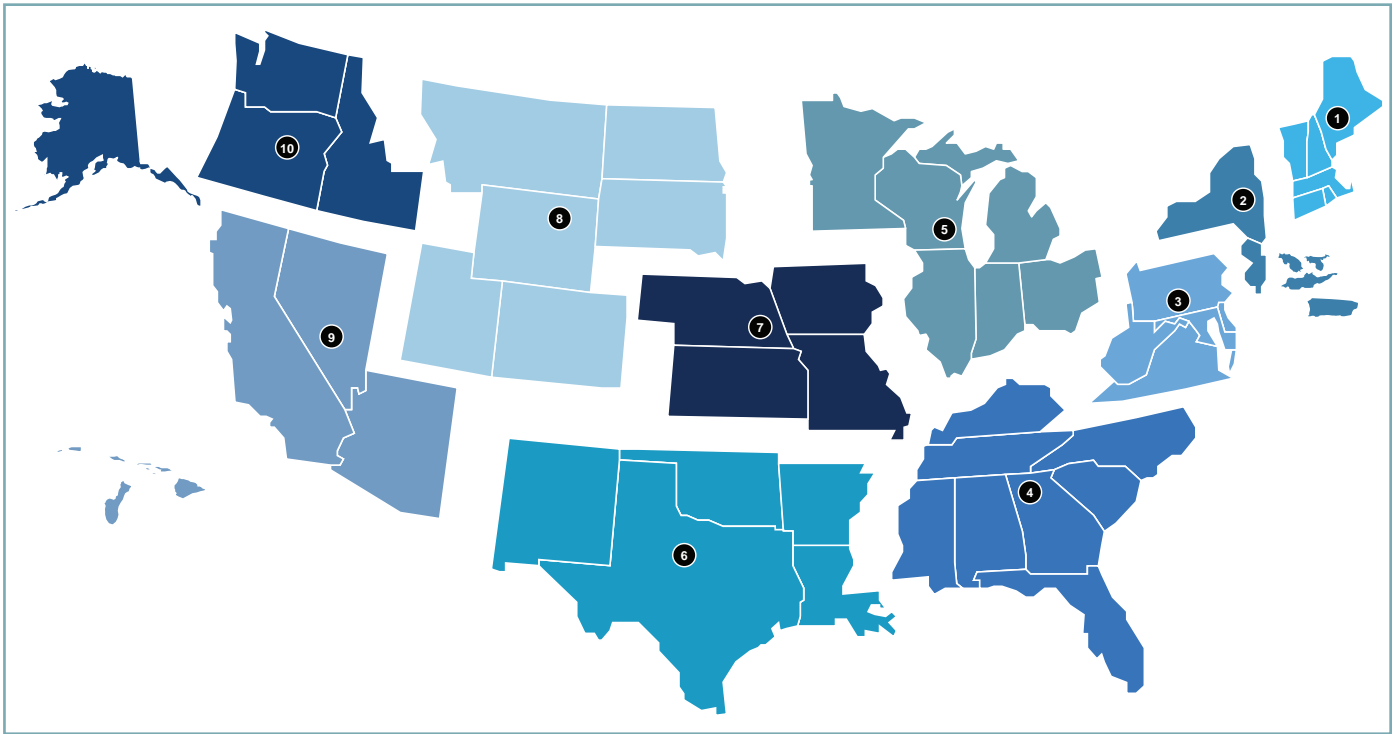
## Foreword

“Cleaning up contamination is vitally important to the physical health of America’s communities, but putting clean land back into productive use brings with it a range of social and economic benefits that will strengthen those communities for years to come. State response programs with support from CERCLA 128(a) funding are able to oversee assessment and cleanup activities at the majority of brownfields properties across the country. These accomplishments are as varied, as they are widespread. This report captures these successes and showcases them in a user friendly format.”

– Mathy Stanislaus, Assistant Administrator for EPA’s Office of Solid Waste and Emergency Response (OSWER)

U.S. Environmental Protection Agency  
Office of Solid Waste and Emergency Response  
Office of Brownfields and Land Revitalization  
Washington, DC 20460

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*Quick reference matrix of all the state programs*

# STATE BROWNFIELDS AND VOLUNTARY RESPONSE PROGRAMS:

*The State Brownfields and Voluntary Response Programs* Report explores the evolving landscape of state environmental, financial and technical programs designed to promote brownfields cleanup and reuse. This report provides a concise, user-friendly synopsis of the programs and tools that are available through state programs. The information contained in this report was gathered from state response program contacts and state response program websites.

State programs continue to be at the forefront of brownfields cleanup and redevelopment, as both the public and private markets recognize the responsibilities and opportunities of state response programs in ensuring protective and sustainable cleanups. The increasing number of properties entering state programs emphasizes the states' essential role in brownfields cleanup. In the coming years—in times of heightened budgetary concerns and tight budgets—state programs will look to ensure that resources are committed for long-term monitoring and other property needs, continue to create incentives to assist in the cleanup and reuse of brownfield properties, and develop sustainability initiatives to incorporate sustainability into cleanup and end use decisions. States will continue to put many different approaches in place to meet these goals and address the diverse challenges of brownfields reuse. This report attempts to summarize those programs and approaches.

## Elements in the Analysis

This update looks at several components of state brownfields and voluntary response programs.

The *Program* overview lays out the basics of each state's voluntary response program and any other brownfields related cleanup programs. It provides program titles and contact information for each state program, and discusses administrative elements, such as program costs, fees for service, and sources of funding for program staff and operations. A major part of the update is the review of Cleanup Activities. To the extent that states provided the necessary data, the update contains information on the number of properties that entered and/or subsequently completed a state's voluntary cleanup program.

*Financial Elements* provides an explanation of assessment and cleanup funding, tax incentives, and other forms of brownfields redevelopment support available under state programs, such as environmental insurance. This update includes information on financial programs directly available through state voluntary response programs, as well as other incentive programs applicable to brownfields reuse efforts. The report includes information on funding sources, funding amounts, and a program's focus on special types of properties, such as dry cleaners or petroleum properties. In addition, this section discusses liability relief provisions.

*Program Elements* provides information on the technical elements of individual state programs. It includes information on applicable cleanup methods and standards, contaminants covered or excluded under state programs, requirements governing institutional controls, and state approaches to long-term stewardship.

*Program Highlights* provides a success story or overview of a project or activity recently conducted using the Environmental Protection Agency's (EPA) Section 128(a) Response Program funding. The program highlights section showcases the variety of ways states are using Section 128(a) Response Program funding to continue to develop their programs or conduct site-specific assessment or cleanup activities to protect human health and the environment and spur economic development.

# EPA REGION 1

## Voluntary Remediation Program (VRP) Connecticut Department of Energy and Environmental Protection (DEEP)

79 Elm Street  
Hartford, CT 06106-5127  
[www.ct.gov/deep](http://www.ct.gov/deep)

Contact(s): Robert Bell  
Assistant Director, Remediation Division  
[Robert.E.Bell@ct.gov](mailto:Robert.E.Bell@ct.gov)  
860-424-3873

### Program Overview

- Brownfields and Urban Sites Program
- Cost to Enter the Program: Varies
- Liability Relief Provisions
- Tax Incentives
- Licensed Environmental Professional Program

## PROGRAM

A new brownfields law in Connecticut went into effect in 2011 providing liability relief for certain innocent parties who acquire a brownfield and clean up the property to state standards within statutory timeframes. See the Brownfield Remediation and Revitalization Program (Section 17 of Public Act 11-141). In exchange for cleanup onsite, the law provides that the eligible party is not required to clean up prior releases that migrated off-site, plus provides various third party liability protections.

[www.ct.gov/dep/cwp/view.asp?a=2715&q=325028&depNav\\_GID=1626](http://www.ct.gov/dep/cwp/view.asp?a=2715&q=325028&depNav_GID=1626)

- **Funding Source(s) for the Program:** State funds (approximately 65percent) and federal grants (approximately 35percent).
- **Cost to enter program or fees for service:** Varies; \$3,250 for Voluntary Remediation Program.
- **Sites Enrolled in VCP:** As of October 2012, more than 460 sites in Voluntary Response Programs.
- **Sites Completed under VCP:** As of October 2012, more than 34 sites completed under Voluntary Response Programs. Many other sites are remediated pursuant to mandatory state laws.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance are available to assist with brownfields reuse projects. Office of Brownfield Remediation and Development. <http://www.ctbrownfields.gov/ctbrownfields/site/default.asp>  
[www.ct.gov/dep/cwp/view.asp?a=2715&q=324942&depNav\\_GID=1626](http://www.ct.gov/dep/cwp/view.asp?a=2715&q=324942&depNav_GID=1626)

### Incentives

- Urban and Industrial Site Investment Tax Credit Program – Tax credit for corporate taxes on redevelopment projects in industrial areas. [www.ct.gov/ecd/cwp/view.asp?A=1101&Q=249842](http://www.ct.gov/ecd/cwp/view.asp?A=1101&Q=249842)
- Enterprise Zone Program – Incentives provide tax abatement for real estate improvements and deferral of higher taxes resulting from increased property values after project completion. [www.ct.gov/ecd/cwp/view.asp?a=1099&q=249766](http://www.ct.gov/ecd/cwp/view.asp?a=1099&q=249766)
- Housing and Historic Tax Credit Program – Provides financial incentives in the form of housing and historic tax credits. [www.cttrust.org/index.cgi/114](http://www.cttrust.org/index.cgi/114)

### Liability Relief Provisions

Two types of Covenants Not to Sue (CNTS) are available for sites in Connecticut. A CNTS is an agreement by the Commissioner that the Commissioner shall release claims related to pollution or contamination on or emanating from the property that resulted from a discharge, spillage, uncontrolled loss, seepage, or filtration on such property prior to the effective date of the covenant. One is instituted pursuant to Section 22a-133aa of the Connecticut General Statutes (CGS) and one pursuant to Section 22a-133bb.

In order to realize this benefit, the property must be remediated in accordance with the Department's Remediation Standard Regulations (RSR) in effect on the effective date of the CNTS, and any environmental land use restriction necessary to comply with the RSRs must be recorded on the land records and must remain in effect

[www.ct.gov/dep/cwp/view.asp?a=2715&q=324936&depNav\\_GID=1626](http://www.ct.gov/dep/cwp/view.asp?a=2715&q=324936&depNav_GID=1626)

### Abandoned Brownfield Cleanup Program

Allows new developers of certain brownfields to not incur liability to address pre-existing, off-site contamination as long as cleanup of onsite contamination continues, and migration of contamination from the site ceases.

<http://www.cga.ct.gov/2011/pub/chap578.htm#Sec32-9ll.htm>



Municipalities also have a variety of liability relief protections under various laws.  
<http://www.cga.ct.gov/2011/pub/chap578.htm#Sec32-9ll.htm>

### **Licensed Environmental Professional Program**

DEEP allows a Licensed Environmental Professional (LEP) to be responsible for the direct oversight of site investigation and remediation projects at many sites, in lieu of DEEP reviews and approvals.

[www.ct.gov/dep/cwp/view.asp?a=2715&q=324978&depNav\\_GID=1626](http://www.ct.gov/dep/cwp/view.asp?a=2715&q=324978&depNav_GID=1626)

## **PROGRAM ELEMENTS**

### **Methods/Standards/Controls**

Remediation standard regulations (Regulations of Connecticut State Agencies [RCSA] 22a -133k -1 through k3) were adopted in January 1996. These regulations provide published numeric criteria for cleanup of soil, soil vapor and ground water; permit use of background concentrations; allow site-specific conditions; and provide for the use of engineered controls and institutional controls that change cleanup requirements, but ensure the long-term stewardship of the site. The Risk-Based Corrective Action (RBCA) process was used as a guide in developing the criteria.

[www.ct.gov/dep/cwp/view.asp?a=2715&q=325012&depNav\\_GID=1626](http://www.ct.gov/dep/cwp/view.asp?a=2715&q=325012&depNav_GID=1626)

### **Contaminants Covered**

These regulations require remediation of all substances that are part of a release (including petroleum, asbestos, lead from paint, and polychlorinated biphenyls [PCBs]). If numeric criteria are not provided in the regulations, criteria must be proposed and submitted to DEEP and the Department of Public Health (DPH) for review and approval.

### **Institutional Controls (IC)**

**IC Tracking, Oversight, and Monitoring:** Environmental land use restrictions (as prescribed in the remediation standard regulations) can be implemented with the land owner's consent, require the Commissioner's approval, are recorded on the land records, and are enforceable on future property owners.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state:

[http://www.ct.gov/dep/cwp/view.asp?a=2715&q=325018&depNav\\_GID=1626](http://www.ct.gov/dep/cwp/view.asp?a=2715&q=325018&depNav_GID=1626)

## **PROGRAM HIGHLIGHTS**

DEEP is in the middle of a comprehensive evaluation and transformation of its state cleanup laws. Starting in January 2011, DEEP commenced a public process to evaluate all the state cleanup laws, identify what is working well and what could be improved, and began shaping proposals for transforming the cleanup laws. The goals are a more efficient, speedy, clear, comprehensive and protective system. Cleanup transformation details and documents are on the DEEP website ([www.ct.gov/deep](http://www.ct.gov/deep)) under "Current Topics."

## **OTHER LAND PROGRAMS**

### **State Superfund Program**

[www.ct.gov/dep/cwp/view.asp?a=2715&q=325022&depNav\\_GID=1626](http://www.ct.gov/dep/cwp/view.asp?a=2715&q=325022&depNav_GID=1626)

### **Underground Storage Tank Petroleum Clean-Up Program**

[www.ct.gov/dep/cwp/view.asp?a=2717&q=325322&depNav\\_GID=1652](http://www.ct.gov/dep/cwp/view.asp?a=2717&q=325322&depNav_GID=1652)

### **Significant Environmental Hazard Program**

[www.ct.gov/dep/cwp/view.asp?a=2715&q=324976&depNav\\_GID=1626](http://www.ct.gov/dep/cwp/view.asp?a=2715&q=324976&depNav_GID=1626)

## **Brownfields Program Massachusetts Department of Environmental Protection (MassDEP)**

One Winter Street, 2nd Floor  
Boston, MA 02108

[www.mass.gov/dep/cleanup/](http://www.mass.gov/dep/cleanup/)

Contact(s): Kerry Bowie  
Brownfields Coordinator  
[kerry.bowie@state.ma.us](mailto:kerry.bowie@state.ma.us)  
617-556-1007

### Program Overview

- Brownfields Program
- Cost to Enter the Program: Annual Compliance Fees
- Liability Relief Provisions
- Tax Incentives
- Environmental Insurance
- Licensed Site Professional (LSP)

## PROGRAM

The Commonwealth of Massachusetts is committed to the cleanup and redevelopment of brownfield properties as a way to stimulate the economy and promote environmental protection goals. State brownfields program incentives are available to buyers, and sometimes sellers, of contaminated property provided there is a commitment to cleanup and redevelopment. [www.mass.gov/dep/cleanup/brownfie.htm](http://www.mass.gov/dep/cleanup/brownfie.htm)

- **Funding Source(s) for the Program:** Federal grants and the state general fund. Funding from the Section 128(a) Response Program grant is used to support the Massachusetts Waste Site Cleanup and Brownfield Programs.
- **Cost to enter program or fees for service:** Annual Compliance Fees are assessed each year for each site reported to MassDEP until a site is permanently remediated. In addition, permit fees apply to some waste site cleanup submittals.
- **Sites Enrolled in VCP:** As of July 2012, 40,780 release notifications have been made to MassDEP, with about 3,600 still active. Approximately 1,400 new releases enter the program each year.
- **Sites Completed under VCP:** As of July 2012, 35,360 releases have been closed out. Beginning in 2002, the number of cleanups per year has surpassed the new notifications.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance are available to assist with brownfields reuse projects. The main source of state funding for assessment and cleanup is through the Brownfields Redevelopment Fund administered by MassDevelopment.

[www.mass.gov/dep/cleanup/bffund.htm](http://www.mass.gov/dep/cleanup/bffund.htm)

### Incentives

- Brownfields Tax Credit Program
- Municipal Tax Abatement Program
- Economic Development Incentive Program (EDIP)
- State Historic Tax Credit

[www.mass.gov/dep/cleanup/brtxinc.htm](http://www.mass.gov/dep/cleanup/brtxinc.htm)

### Liability Relief Provisions

The Massachusetts Brownfields Act established statutory liability relief for certain parties undertaking brownfields projects. A Brownfields Covenant Not to Sue Program is available through the Massachusetts Office of the Attorney General for some projects that are not eligible for statutory protection, and commit to cleanup and redevelopment. [www.mass.gov/dep/cleanup/bfliab.htm](http://www.mass.gov/dep/cleanup/bfliab.htm)

### Environmental Insurance

The Brownfields Act created the Brownfields Redevelopment Access to Capital (BRAC) Program, which backs loans with state subsidized, volume discounted environmental insurance. [www.mass.gov/dep/cleanup/bfins.htm](http://www.mass.gov/dep/cleanup/bfins.htm)

### Brownfields Redevelopment Authorities (or similar)

**Brownfields Support Team Initiative** – In May 2008, Lieutenant Governor Timothy Murray announced the Brownfields Support Team Initiative to help communities clean up contaminated sites and prepare them for redevelopment.

[www.mass.gov/dep/cleanup/brownfie.htm#bst](http://www.mass.gov/dep/cleanup/brownfie.htm#bst)

## PROGRAM ELEMENTS

### Methods/Standards/Controls

A risk-based regulatory program is in place; the regulations are set forth in the Massachusetts Contingency Plan.  
[www.mass.gov/dep/cleanup/laws/regulati.htm](http://www.mass.gov/dep/cleanup/laws/regulati.htm)

### Contaminants Covered

Any oil or hazardous material (OHM) released to the environment is covered, including common contaminants such as petroleum, asbestos (in soil), volatile organic compounds (VOCs), semi-VOCs, metals, polycyclic aromatic hydrocarbons (PAHs) and polychlorinated biphenyls (PCBs), perchlorate, research department explosive (RDX), and high melting explosives (HMX).

### Licensed Site Professionals (LSP)

Those private parties who are financially responsible under MA law for assessing and cleaning up confirmed and suspected hazardous waste sites must retain a licensed Hazardous Waste Site Cleanup Professional to oversee the assessment and cleanup work.  
[www.mass.gov/dep/cleanup/licensed.htm](http://www.mass.gov/dep/cleanup/licensed.htm)

### Institutional Controls (IC)

Activity and Use Limitations (AUL), and deed notices/restrictions are used and are filed at county land record offices (Registry of Deeds).

- **IC Tracking:** AULs are tracked through publicly available databases, as well as geographic information systems (GIS) and KML/KMZ files.
- **IC Oversight:** The state has a Long-Term Stewardship goal and conducts periodic follow-up inspections.
- **IC Monitoring:** There is a state legislative mandate to audit all sites with AULs. An unfavorable audit may re-open cleanup.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.  
[www.mass.gov/dep/cleanup/sitesloc.htm](http://www.mass.gov/dep/cleanup/sitesloc.htm)

## PROGRAM HIGHLIGHTS

MassDEP constantly works to enhance and improve its waste site cleanup program. Some efforts include development of the Institutional Control Tracking System, which is a dual effort with EPA Headquarters to develop a public electronic IC tracking system. MassDEP has also completed an evaluation of the previous standards and regulations regarding petroleum in GW-1 (drinking water areas) that resulted in a revision of the standards, subsequent wide distribution of those standards and trainings to understand and identify the changes in the standards. The last process improvement involved the Indoor Air Workgroup which undertook a review of recent information on background indoor air concentrations and updated the numerical standards for indoor air. The workgroup established background indoor air levels, and plans to publish an up-to-date, comprehensive guidance that consolidates all previous guidance on the topic.

EPA Section 128(a) Response Program funding has been critical to sustaining MassDEP's waste site cleanup program and the many initiatives listed above. This funding has also been used to conduct assessment and cleanup work on behalf of municipalities, nonprofits and regional planning agencies across the Commonwealth. One example of a project for which MassDEP has used this funding is located within the Fairmont Indigo Corridor in Boston, a project chosen by EPA, the Department of Housing and Urban Development (HUD) and the Department of Transportation (DOT) under the Sustainable Communities Initiative. MassDEP is using EPA funding to assess a municipally owned former auto body shop to determine the nature and extent of contamination at the site. This is one of several properties along this transit corridor that are targeted for reuse.

## OTHER LAND PROGRAMS

### Hazardous Waste Management

[www.mass.gov/dep/toxics/hazmatma.htm](http://www.mass.gov/dep/toxics/hazmatma.htm)

### Underground Storage Tanks Program

[www.mass.gov/dep/toxics/ust/index.htm](http://www.mass.gov/dep/toxics/ust/index.htm)

## Voluntary Response Action Program (VRAP) Maine Department of Environmental Protection (DEP)

17 State House Station  
Augusta, ME 04333-0017  
[www.maine.gov/dep/rwm/](http://www.maine.gov/dep/rwm/)

Contact(s): Nick Hodgkins  
(VRAP & Brownfields)  
[nick.hodgkins@maine.gov](mailto:nick.hodgkins@maine.gov)  
207-287-4854

### VRAP Program Overview

- Cost to Enter the Program: \$500
- Technical Assistance
- Liability Relief Provisions

### Brownfields Program Overview

- No Cost to Enter the Program
- Grant of Services for Assessments
- Remediation Assistance to Municipalities and Nonprofits

## PROGRAM

In 1993, the Maine Legislature established the Voluntary Response Action Program (VRAP). The VRAP allows applicants to voluntarily investigate and clean up properties to the Maine Department of Environmental Protection's (MEDEP) satisfaction, in exchange for protections from enforcement actions. The VRAP is intended to encourage the cleanup and redevelopment of contaminated properties within the state.

<http://www.maine.gov/dep/spills/vrap/index.html>

- **Funding Source(s) for the Program:** Federal grants and VRAP Program fees.
- **Cost to enter program or fees for service:** There is a \$500 application fee and reimbursement of all staff costs.
- **Sites Enrolled in VCP:** As of October 2012, 116 sites are underway.
- **Sites Completed under VCP:** As of October 2012, 635 sites completed investigation and remedial action.

## FINANCIAL ELEMENTS

Funding for the VRAP is provided by the applicants. Applicants conduct and submit investigation reports, remedial work plans and remediation completion reports to the VRAP for review and approval. The cost of the VRAP project manager's time is billed to the applicant.

### Brownfields Assessment and Cleanup Funding

This program is funded through federal grants. Targeted Brownfields Assessment (TBA) grants (contractor services) are available to municipalities, nonprofits or developers. Remedial grants are available for properties owned by municipalities and nonprofits.

### Liability Relief Provisions

The VRAP offers a Certificate of Completion (COC) for all pollutants identified in site assessment and cleanup to the program's satisfaction. Legal authorities include: strict, joint and several, and retroactive liability; orders for information; site access and remediation orders; administrative order authority; cost recovery; liens and super liens; and punitive damages of treble the state's costs. Sites that have been assessed and or remediated through the Brownfields Program have all of the information needed to enter the VRAP.

### Brownfields Redevelopment Authorities (or similar)

The state's voluntary program is an alternative to the state's regular cleanup program. Some monies are dedicated to fund the state's participation; participants pay a \$500 application fee and are charged for time spent by the state. Site owners are able to get full or partial liability releases depending on the cleanup work carried out at the site. Incentives for participation include getting sites back into economic use and obtaining a certificate from the state indicating that cleanup was completed to the state's satisfaction. MEDEP and the Maine Department of Economic and Community Development have partnered on a Revolving Loan Fund to assist developers with remedial costs at their properties.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

New cleanup guidelines are currently available and consider four separate exposure scenarios for soil contact: 1) residential, 2) outdoor commercial worker, 3) construction/excavation worker, and 4) recreational/park user. Alternatively, a site-specific goal may be established using the state's risk-assessment guidance document. <http://www.maine.gov/dep/spills/publications/guidance/index.html>

### Contaminants Covered

All hazardous substances/wastes and petroleum.

### Institutional Controls (IC)

**IC Tracking, Oversight, and Monitoring:** ICs are part of most certifications at VRAP sites. All ICs are completed and recorded at the registry of deeds pursuant to the states' Uniform Environmental Covenants Act (UECA).

- **IC Tracking:** VRAP receives copies of the recorded UECA's.
- **IC Oversight:** Maine has no official IC oversight.
- **IC Monitoring:** VRAP audits a small number of ICs on annually.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.maine.gov/dep/maps-data/remdescriptanddata.html>

## PROGRAM HIGHLIGHTS

The MEDEP Brownfields Program provided assessment services through its Section 128(a) Response Program funding to assess an old dairy property and associated residence in Bangor for a nonprofit housing developer. An underground petroleum tank and contamination issues with the building (i.e., asbestos, lead paint) were found. The MEDEP Brownfields Program plans to assist in the cleanup of portions of the property, as appropriate under the grant guidelines. A multi-unit housing complex for homeless persons is planned for the property.

## OTHER LAND PROGRAMS

### Municipal Landfill Remediation Program

<http://www.maine.gov/dep/spills/landfillclosure/index.html>

### Underground Storage Tanks Program

<http://www.maine.gov/dep/waste/ust/index.html>

# NEW HAMPSHIRE

## Brownfields Program New Hampshire Department of Environmental Services (DES)

P.O. Box 95  
Concord, NH 03301-0095  
<http://des.nh.gov/>

Contact(s): Rebecca S. Lawrence  
[rebecca.lawrence@des.nh.gov](mailto:rebecca.lawrence@des.nh.gov)  
603-271-6573

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$750 application fee/\$4,500 participation fee
- Liability Relief Provisions
- Tax Incentives
- Grantee Assistance Program

## PROGRAM

The New Hampshire Brownfields Program encourages the redevelopment of contaminated properties through a variety of approaches that address the uncertainty and liability concerns associated with brownfields. These approaches include: the Brownfields Covenant Program, Brownfields Assessment Program, Brownfields Cleanup Revolving Loan Fund, and the Department of Environmental Services (DES)/Grantee Brownfields Partnership.

<http://des.nh.gov/organization/divisions/waste/hwrp/sss/brownfields/index.htm>

- **Funding Source(s) for the Program:** Hazardous Waste Cleanup Fund (HWCF) (20percent) and federal grants (80percent).
- **Cost to enter program or fees for service:** \$750 application fee and a \$4,500 participation fee for the Brownfields Covenant Program.
- **Sites Enrolled in VCP:** As of August 2012, 53 sites have enrolled in the program.
- **Sites Completed under VCP:** As of August 2012, 30 sites have completed the program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants and loans are available to assist with brownfields reuse projects.

<http://des.nh.gov/organization/divisions/waste/hwrp/sss/brownfields/categories/grants.htm>

### Incentives

- “Qualified holder” provisions of hazardous waste and petroleum statutes provide protection to lenders and municipalities (for tax deeding).
- Brownfields are exempt from state hazardous waste generator fees.
- Municipalities can abate taxes at brownfields.

### Liability Relief Provisions

- Program offers a No Further Action (NFA) letter (when active remediation measures were not required), a Certificate of Completion (COC), a Certificate of No Further Action (when active remediation measures were required to achieve closure), and a Covenant Not to Sue (CNTS).
- State law provides for strict, joint and several liabilities. The state is authorized to issue administrative orders, including those for information, site access and site cleanup.

### Brownfields Grantee Assistance Program

In an effort to help New Hampshire grantees maximize the effectiveness of their grant dollars and the success of their efforts, DES established a policy of assigning a staff geologist or engineer to serve as a brownfields grant liaison. The liaison works closely with the grantee to provide technical assistance with implementing the grant work plan. Assistance includes review of draft work scopes and reports prior to submittal of formal reports. <http://des.nh.gov/organization/divisions/waste/hwrp/sss/brownfields/grantee.htm>

## PROGRAM ELEMENTS

### Methods/Standards/Controls

ReRisk characterization and management policy includes a three-tiered risk-based approach. Contaminant-specific generic soil and ground water cleanup standards are provided in table form; alternatives can be developed based upon site-specific information.

<http://des.nh.gov/organization/divisions/waste/hwrp/sss/brownfields/categories/rules.htm>

### Contaminants Covered

Petroleum, asbestos, lead paint and polychlorinated biphenyls (PCBs) are all covered.

### Institutional Controls (IC)

Activity and Use Restrictions (AURs) are used when the risk characterization depends upon the restriction of site activities and uses to achieve or maintain protection of human health and/or environment. After completion of active remedial measures, a ground water management permit (an institutional control itself) is typically issued to monitor ground water quality until it meets standards.

- **IC Tracking:** Requires responsible parties (RP) to submit draft Notices of Activity and Use Restriction to DES. Ground water use is addressed under Groundwater Management Permits and a Notice of Groundwater Management Permit is recorded in the chain of title for each property located within the permit Groundwater Management Zone. Copies of Recorded Notices of Activity and Use Restriction and Notices of Groundwater Management Permit bearing the County Registry of Deeds stamp are required. Final recorded Notices of Activity and Use Restrictions, and Groundwater Management Permits are on the OneStop database for public access.
- **IC Oversight:** DES reviews and approves all draft Notices of Activity and Use Restrictions prior to recordation in the chain of title for a site.
- **IC Monitoring:** DES does not currently have a program for monitoring compliance with Notices of Activity and Use Restrictions. However, DES is considering instituting a trial monitoring program in the future. RPs and subsequent site owners are required to submit self-certification forms to DES on an annual basis to demonstrate continued compliance and awareness of the Notice of Activity and Use Restriction. Non-compliance with the conditions of a Notice of Activity and Use Restriction is grounds for requiring active remedial actions and termination of the Notice of Activity and Use Restriction.

<http://des.nh.gov/organization/divisions/waste/hwrp/sss/brownfields/controls.htm>

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and ICs. This link also provides additional information regarding contaminated sites in the state.

<http://des.nh.gov/onestop/index.htm>

## PROGRAM HIGHLIGHTS

The New Hampshire Department of Environmental Services (NHDES) used Section 128(a) Response Program funding to complete Phase I and Phase II environmental assessments at the Richelson Building in Plymouth. The current building was constructed between 1930 and 1937 and was occupied by a clothing store and ski outfitting shop. In 1992, the building was renovated to include a furniture store, tanning salon, photocopy shop, bagel shop, an art studio and an office for Plymouth State University (PSU). The building has been vacant since 2009. The assessments were conducted to determine potential petroleum contamination associated with an underground storage tank. The assessments revealed that no cleanup was required and allowed the Grafton County Economic Development Council (Council) to receive U.S. Department of Housing and Urban Development (HUD) funding to purchase the property. In addition, the Council was awarded \$500,000 in New Hampshire Tax Credits and successfully applied for a loan from the Northern Border Regional Commission, a new regional coordination mechanism for the Northern Forest states as well as a potentially significant new source of investment for economic and community development in the region. As the property is located adjacent to PSU, the Council is working with PSU to renovate the building to house a small business incubator and business resource center that will be run by PSU staff. Construction of the new facility is anticipated to begin in November 2012.

## OTHER LAND PROGRAMS

### Asbestos Management

<http://des.nh.gov/organization/divisions/air/cb/ceps/ams/index.htm>

### Underground Storage Tanks Program

<http://des.nh.gov/organization/divisions/waste/orcb/ocs/ustp/index.htm>

## State Site Remediation and Brownfields Program Rhode Island Department of Environmental Management (RIDEM)

235 Promenade Street  
Providence, RI 02908-5767  
<http://www.dem.ri.gov/>

Contact(s): Kelly J. Owens  
[kelly.owens@dem.ri.gov](mailto:kelly.owens@dem.ri.gov)  
401-222-2797

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$1,000
- MOA with EPA Region 1
- Liability Relief Provisions
- Tax Incentives
- Economic Development Corporation (EDC)

## PROGRAM

The Rhode Island Site Remediation and Brownfields Programs regulates and provides technical oversight for the investigation and remediation of releases of hazardous waste or hazardous material to the environment; ensures that those investigations and remedial activities are conducted in a consistent manner that adequately protects human health and the environment; and enforces regulations regarding the proper remediation of Resource Conservation and Recovery Act (RCRA) Corrective Action sites.

<http://www.dem.ri.gov/programs/benviron/waste/topicrem.htm>

- **Funding Source(s) for the Program:** Federal grants and General State Fund.
- **Cost to enter program or fees for service:** The only fee is the \$1,000 Remedial Action Approval fee which is required of all projects that fall under the Remediation Regulations.
- **Sites Enrolled in VCP:** As of August 2012, 891 sites were in active investigation, remediation or monitoring stages of the program.
- **Sites Completed under VCP:** As of August 2012, 803 sites have completed the Voluntary Cleanup Program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants and loans are available to assist with brownfields reuse projects. <http://www.dem.ri.gov/brownfields/financial/index.htm>

### Incentives

- Rhode Island Economic Development Corporation (RIEDC): Enterprise Zone Business Tax Credit. <http://www.riedc.com/business-services/enterprise-zones>
- RI General Law: <http://www.rilin.state.ri.us/Statutes/TITLE42/42-64.3/INDEX.HTM>
- Historic Preservation Investment Tax Credits – The Rhode Island Historic Preservation and Heritage Commission administers both the federal and the state tax credit programs. <http://www.preservation.ri.gov/credits/commstate.php>

### Liability Relief Provisions

Under state law, all parties responsible for contamination at a site [responsible parties (RP)] are strictly, jointly and severally liable for remediating the site. The remedial liability is retroactive in the sense that liability attaches when a site is determined to be contaminated without regard to when the site became contaminated or whether the activity that caused the contamination was legal at the time it occurred.

### Brownfields Redevelopment Authorities (or similar)

The state Economic Development Corporation (EDC) in coordination with DEM administers a Brownfields Cleanup Revolving Loan Fund. EDC acts as the financial program manager and DEM acts as the site manager. Sub-grants may be available to nonprofits and municipalities under the RLF depending on remaining funding, and loans are available to all interested parties.

<http://www.dem.ri.gov/brownfields/financial/rifdocuments.htm>

## PROGRAM ELEMENTS

### Methods/Standards/Controls

The Remediation Regulations were amended on November 9, 2011. The regulatory changes include the following: 1) Revised capping requirements on arsenic-only sites; the standards for Residential and Industrial/Commercial Direct Exposure Criteria of 7.0 mg/kg remained the same; 2) Environmental Land Usage Restriction (ELUR) requirements for some residential properties on arsenic only sites changed; and



3) Addition of Environmental Justice requirements with respect to Public Notices were added to Regulations for the first time.  
<http://www.dem.ri.gov/pubs/regs/regs/waste/remreg11.pdf>

### Contaminants Covered

Petroleum and polychlorinated biphenyls (PCBs) are included under the Remediation Regulations. Lead-based paint from industrial/commercial properties also are covered under the regulations, but only in cases where they are in the environment and not still on a structure. Lead-based paint contamination at residential properties falls under the jurisdiction of the RI Department of Health (RIDOH) and falls under the RIDOH definition of a "Regulated Facility."

### Institutional Controls (IC)

Rhode Island supports the use of ELURs on properties when warranted. Annual ELUR compliance self-monitoring is required. In addition, DEM's Office of Waste Management has been auditing a percentage of the properties that have ELURs since 2005. Benefits of ICs are that more sites are being cleaned and reused. Community concerns are being addressed by mandatory public notice requirements at various points during investigation and remedy selection and there are additional Public Notice requirements on sites in Environmental Justice areas.

- **IC Tracking:** ELURs are recorded on the deeds of the properties and their presence is tracked in a database maintained by DEM. The self-monitoring and audits are also tracked in the database. Properties not in compliance are issued progressive enforcement documents.
- **IC Oversight:** DEM provides oversight on all remediation projects, which includes reviewing plans for engineered caps and ELURs.
- **IC Monitoring:** DEM audits a percentage of all sites with ELURs every year since 2005 and has required annual self-monitoring of the ELURs by property owners since approximately 1999.

The following Web address is a direct link to the state's Congressional mandated brownfields lists, which includes a list of sites remediated during the last year and a list of sites expected to be remediated during the coming year.

<http://www.dem.ri.gov/brownfields/documents/#pubrecrd>

The following link is a geographic information system (GIS) that maps sites. <http://www.dem.ri.gov/maps/index.htm>

## PROGRAM HIGHLIGHTS

Located on the Pawcatuck River in the Village of Shannock, the Knowles Mill Park was the location of various grist, textile and woolen mills which operated for more than 100 years. It was also the location of a fierce battle in 1636 between the Narragansett and Pequot Indians over fishing rights. RIDEM was able to complete assessment of the property for the Town of Richmond utilizing 128(a) Response Program funding. This included coordination with the RI State Historic Preservation and Heritage Commission (SHPO) and Tribal Historic Preservation Officer (THPO) to develop a remedial approach for the Town of Richmond that incorporated the park design and preserved portions of the former mill building and a Native American commemorative plaque. The town completed redevelopment of the property in summer 2012 as a handicap accessible/Americans with Disabilities Act compliant historic interpretive park, and canoe portage and launch, with the help of \$156,000 in Section 128(a) Response Program funding for assessment and remediation, and a \$200,000 EPA Brownfields Cleanup grant.



Riverside trail at the Knowles Mill Park

## OTHER LAND PROGRAMS

### Underground Storage Tank Management Program

<http://www.dem.ri.gov/programs/benviron/waste/topictan.htm>

### Waste Management Facilities Program

<http://www.dem.ri.gov/programs/benviron/waste/topicwfm.htm>

### Superfund and Department of Defense Program

<http://www.dem.ri.gov/programs/benviron/waste/topicffp.htm>

## Redevelopment of Contaminated Properties Program (RCPP)

Vermont Department of Environmental Conservation (DEC)

103 South Main Street  
Waterbury, VT 05671-0404  
[www.anr.state.vt.us/dec/wmd.htm](http://www.anr.state.vt.us/dec/wmd.htm)

Contact(s): George Desch  
Division Director  
[george.desch@state.vt.us](mailto:george.desch@state.vt.us)  
802-241-3888

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$500
- MOA with EPA Region 1
- Liability Relief Provisions
- Tax Incentives
- Environmental Insurance

## PROGRAM

The Brownfields Reuse and Environmental Liability Limitation Act (BRELLA) or Brownfields Program, provides participants with a broad release from state liability in exchange for cleanup of a contaminated property. Participation in BRELLA is open to prospective purchasers and innocent current owners, provided that they did not cause or contribute to the contamination and are not affiliated with any entity that caused or contributed to the contamination. [www.anr.state.vt.us/dec/wastediv/SMS/brownfields-home.htm](http://www.anr.state.vt.us/dec/wastediv/SMS/brownfields-home.htm)

- **Funding Source(s) for the Program:** 100percent Federal Funds.
- **Cost to enter program or fees for service:** All applicants must pay a non-refundable application fee of \$500.
- **Sites Enrolled in in BRELLA:** As of August 2012, there were 25 active projects enrolled in BRELLA.
- **Sites Completed under BRELLA:** As of August 2012, 14 projects had received Certificates of Completion (COC) through BRELLA.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance are available to assist with brownfields reuse projects.  
[www.anr.state.vt.us/dec/wastediv/SMS/RCPP/Loans\\_Grants.htm](http://www.anr.state.vt.us/dec/wastediv/SMS/RCPP/Loans_Grants.htm)

### Incentives

- Tax incentives for rehabilitation of existing properties in designated “downtown” areas; not specific to brownfields, but contaminated properties are eligible.
- Participants in BRELLA are exempted from the state’s hazardous waste transport tax for hazardous waste that is being removed from the brownfield site in connection with the cleanup.

### Liability Relief Provisions

The Environmental Liability Limitation Program provides participants with a COC upon implementation of a state approved Corrective Action Plan. The COC effectively releases the property owner from state liability, which release may only be rescinded in limited circumstances, such as fraud or hazardous material releases which occur subsequent to the cleanup.

<http://www.anr.state.vt.us/dec/wastediv/SMS/RCPP/Liability-Limitation.htm>

### Environmental Insurance

The Brownfields Revitalization Fund can provide grants or loans to assist with the purchase of environmental insurance in connection with implementation of a state-approved work plan.

### Brownfields Redevelopment Authorities (or similar)

Economic Development: The Brownfields Initiative combines the economic development expertise of the Agency of Commerce and Community Development (ACCD) with the environmental experience of the Agency of Natural Resources (ANR).

[http://accd.vermont.gov/business/relocate\\_expand/capital/brownfields](http://accd.vermont.gov/business/relocate_expand/capital/brownfields)

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Cleanup standards/screening values are set in State Rules or guidance documents. Ground water standards are located in the Vermont Groundwater Rule; Surface Water Standards are the Vermont Surface Water Quality Standards. Soil, sediments and indoor air/soil gas values are located within the Investigation and Remediation of Contaminated Properties document.

Risk assessment at sites is allowed using the EPA Risk Assessment Guidance (RAG) and will need approval from the Vermont Department of Health. <http://www.anr.state.vt.us/dec/wastediv/SMS/pubs/IROCP.pdf>

### Contaminants Covered

Volatile Organic Compounds (VOC), semi-VOCs, metals, polychlorinated biphenyls (PCBs), asbestos releases not associated with building materials.

The Department of Health has jurisdiction on lead and asbestos abatement. The Agency of Agriculture has jurisdiction over pesticides

### Institutional Controls (IC)

**IC Tracking, Oversight, and Monitoring:** Annual reporting/monitoring is required for sites with an IC.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.anr.state.vt.us/dec/wastediv/SMS/hazsites.htm>

## PROGRAM HIGHLIGHTS

The Town of Brattleboro's Waterfront/Union Station project is under construction after years of planning. The project consists of several parcels formerly used for industrial and commercial purposes (i.e., manufactured gas plant, warehouse, auto service, and railroad) that are being reused as a location for multimodal transportation and a waterfront park along the Connecticut River. Cleanup activities included the removal of three underground storage tanks (UST) and adversely impacted soils, building demolition, and the installation of engineering controls (i.e., cap as direct contact barrier) coordinated with ICs and an ongoing Operations and Management Plan. Funding for these activities was provided by the Vermont Department of Environmental Conservation's (VTDEC) Section 128(a) Response Program funds (\$85,000), EPA Petroleum Brownfields funding, along with VTDEC American Recovery and Reinvestment Act (ARRA) petroleum funding and other transportation related funds. A COC is expected to be issued in late 2012 pending approval.



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## OTHER LAND PROGRAMS

### Hazardous Waste Management Program

<http://www.anr.state.vt.us/dec/wastediv/rcra/rcrahome.htm>

### Underground Storage Tanks Program

<http://www.anr.state.vt.us/dec/wastediv/ust/home.htm>

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# EPA REGION 2

## Brownfield Development Area (BDA) Initiative New Jersey Department of Environmental Protection (NJ DEP) Office of Brownfield Reuse

401 East State Street, 6th Floor  
P.O. Box 420, Mail Code 401-05K  
Trenton, NJ 08625-0420  
<http://www.nj.gov/dep/srp/>

Contact(s): Tim Bartle, Chief  
[timothy.bartle@dep.state.nj.us](mailto:timothy.bartle@dep.state.nj.us)  
609-292-1251

### Program Overview

- Brownfields Program
- Cost to Enter the Program: Annual fees and Remediation Permit fees
- Liability Relief Provisions
- Brownfield Reimbursement Program
- Hazardous Discharge Site Remediation Fund
- Economic and Redevelopment Growth Program

## PROGRAM

In October 2002, the Office of Brownfield Reuse (OBR) was created to serve as the focal point for the New Jersey Department of Environmental Protection's (NJDEP) brownfields program. OBR is charged with coordinating remediation and reuse efforts at specific brownfields and piloting innovative approaches to expedite the revitalization process. Under the Brownfield Development Area (BDA) Initiative, OBR works with selected communities affected by multiple brownfields to design and implement remediation and reuse plans for these properties simultaneously.  
<http://www.nj.gov/dep/srp/brownfields/>

May 7, 2012 marked the full implementation date for the Site Remediation Reform Act and the supporting Administrative Requirements for the Remediation of Contaminated Sites. These initiatives improve the quality and speed of site remediation activities through the installation of a Licensed Site Remediation Professional program. Environmental professionals in New Jersey must be experienced and pass a rigorous examination and licensing procedure in order to manage the remediation of brownfields. In return, they assume the authority to document the completion of remediation activities through the issuance of a Remedial Action Outcome letter, replacing the former state-issued No Further Action letter. Additional information is found at <http://www.state.nj.us/dep/srp/>.

- **Funding Source(s) for the Program:** Federal grants, fees and state general fund.
- **Cost to enter program or fees for service:** No fee to enter BDA program. Annual remediation fee calculated by evaluating the number of areas of concerns (AOC) and affected environmental receptors at each site and fixed fees for certain activities and programs, and calculated fees based on hourly rate for any oversight.
- **Sites Enrolled in BDA Program:** As of July 2012, there are 31 BDAs with 339 sites.
- **Sites Completed under BDA Program:** Prior to May 7, 2012, OBR issued 6 No Further Action (NFA) determinations indicating that remediation was complete. Since May 7, 2012, site closure is documented through the issuance of a Remedial Action Outcome letter, issued by a Licensed Site Remediation Professional. No Remedial Action Outcome letters have been issued for BDA sites under this new program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

Municipalities may apply for remediation grants and loans up to \$5 million per year for investigation and cleanup activities from the Hazardous Discharge Site Remediation Fund. Funding for this program is derived from state Corporate Business Tax revenue. The availability of this funding has been greatly reduced by increased demand and reduced Corporate Business Tax revenue. <http://www.nj.gov/dep/srp/finance/hdsr/>

### Incentives

- Brownfield Reimbursement Program administered by the NJ Department of Treasury and the NJ Economic Development Authority reimburses up to 75percent of remediation costs based on specific new taxes that are generated from a redevelopment project. [http://www.nj.gov/dep/srp/brownfields/bf\\_reimbursement.htm](http://www.nj.gov/dep/srp/brownfields/bf_reimbursement.htm)
- Economic and Redevelopment Growth Program provides grants to eligible developers/owners of up to 75percent of the incremental increase in approved state revenues that are directly realized from the businesses operating in the redevelopment project premises. These funds are used to reimburse remediation and development costs. <http://www.njeda.com/erg>
- Environmental Opportunity Zones, designated by municipal ordinance, allow for an incremental tax abatements on real property (to offset cleanup costs) for up to 15 years.

### Liability Relief Provisions

The New Jersey Site Remediation Reform Act (SRRA) established statutory liability relief for certain parties undertaking brownfields projects. [http://www.nj.gov/dep/srp/brownfields/site\\_reuse.htm](http://www.nj.gov/dep/srp/brownfields/site_reuse.htm)

### Brownfields Redevelopment Authorities (or similar)

The Brownfields Redevelopment Interagency Team (BRIT) is made up of representatives of numerous state agencies and introduces projects to all affected state agencies and departments. The BRIT enables and facilitates dialogue among the state, the municipality and the developer. This dialogue assists in identifying opportunities and obstacles, as well as applicable financial and technical assistance, early on in the planning process of a project so they may be addressed with minimal impact. <http://www.nj.gov/state/planning/brownfields-task-force.html>

## PROGRAM ELEMENTS

### Methods/Standards/Controls

The state allows three cleanup levels: 1) unrestricted use remedial actions; 2) limited restricted use remedial actions (institutional controls only); and 3) restricted use remedial actions (engineering and institutional controls). Natural attenuation is allowed in some circumstances when combined with a Classification Exception Area (CEA) institutional control. Contamination source must be removed. Deed Notices, another institutional control, are applied to sites where soil contamination above unrestricted use standard(s) remain onsite after remediation activities are complete. <http://www.nj.gov/dep/srp/regs/techrule/>

### Contaminants Covered

All hazardous substances on adopted list pursuant to Section 4 of P.L. 1983, c. 315 (NJSA 34:5A-4), including petroleum.

### Institutional Controls (IC)

Institutional and engineering controls for soils and ground water are acceptable remedies when they meet the risk-based requirements of the regulations. NJDEP uses a formal permit system to track the maintenance of institutional and engineering controls. Part of this permitting system includes annual permit maintenance fees and the submission of a biennial certification to report on the status of the controls' effectiveness. NJDEP inspection is required every five years.

- **IC Tracking:** NJDEP issues post-remediation Remedial Action permits to track those cases that have used engineering and ICs. These permits are monitored to ensure that inspection and reporting obligations are met and the biennial certifications are submitted.
- **IC Oversight and Monitoring:** reviews all biennial certifications to ensure that the remedy remains protective. Any integrity issues with a remedy must be addressed by the party responsible for maintaining the control. In addition, any person that fails to submit a biennial certification may be subject to penalties. NJDEP is required to inspect engineering controls at least once every five years.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.nj.gov/dep/srp/kcsnj/>

Institutional and engineering controls are mapped on the NJDEP geographic information system, available to the public at

<http://www.nj.gov/dep/gis/newmapping.htm>, Areas of historic fill are mapped on and made available at

<http://www.state.nj.us/dep/njgs/geodata/dgs04-7.htm>

## PROGRAM HIGHLIGHTS

The City of Camden is currently transforming several of its brownfields into productive reuses including housing, community centers, open space and green infrastructure projects. One of the projects completed this year is the Meadows at Pyne Poynt development on the former Knox Gelatin Site in North Camden that has been abandoned for the last 40 years. The Meadows at Pyne Poynt development, a 40-unit special needs housing project, was made possible by an \$11 million Department of Housing and Urban Development (HUD) grant, EPA Brownfield Assessment grant and technical oversight by the NJDEP Office of Brownfield Reuse. As part of the North Camden Brownfield Development Area (BDA) stakeholder process, NJDEP has been working closely with North Camden stakeholders on revisioning and reuse of brownfields in the neighborhood following the North Camden Neighborhood Plan (2008); the North Camden stakeholder group is currently designing a riverfront park along the Delaware River that will include the northern portion of the former Knox Gelatin Site. As part of NJDEP's enhanced engagement with Camden, NJDEP Office of Sustainability and Green Energy received a \$300,000 EPA Brownfields Job Training grant designed to train Camden residents to work on brownfields.



Camden Mayor Dana Redd speaking at the grand opening of the Meadows at Pyne Poynt on March 8, 2012

## OTHER LAND PROGRAMS

### Underground Storage Tanks (UST) Program

<http://www.nj.gov/dep/srp/bust/>

### Unregulated Heating Oil Tank Program

<http://www.nj.gov/dep/srp/unregulatedtanks/>

### Industrial Site Recovery Act (ISRA)

<http://www.nj.gov/dep/srp/isra/>

### Superfund Program

<http://www.nj.gov/dep/srp/superfund/>

## Brownfield Cleanup Program (BCP)

New York State Department of Environmental Conservation (DEC)  
Division of Environmental Remediation  
625 Broadway  
Albany, NY 12233-7011

<http://www.dec.ny.gov/chemical/brownfields.html>  
(DEC Environmental Cleanup and Brownfield Page)

<http://www.dec.ny.gov/about/627.html>  
(Information on DEC's Division of Environmental Remediation)

Contact(s): [derweb@gw.dec.state.ny.us](mailto:derweb@gw.dec.state.ny.us)  
518-402-9764

Central Office and Regional Contacts:  
<http://www.dec.ny.gov/about/776.html>

### Program Overview

- Brownfield Cleanup Program
- Cost to Participate in the Program: Reimbursement of State Oversight Costs
- Tax Credits for Site Preparation and Cleanup, Redevelopment, and Environmental Insurance
- Liability Relief Provisions

## PROGRAM

The goal of the Brownfield Cleanup Program (BCP) is to enhance private-sector cleanups of brownfields and to reduce development pressure on "greenfields." A brownfield site is any real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant. <http://www.dec.ny.gov/chemical/8450.html>

- **Funding Source(s) for the Program:** State funds, as well as federal grants (Section 128 (a)).
- **Cost to enter program or fees for service:** There are no fees associated with the BCP application process. However, state oversight costs are reimbursed by the party cleaning up the site. Responsible parties also pay past state remedial costs.
- **Sites Enrolled in BCP:** As of March 31, 2012, DEC approved 391 applications for participation in the BCP.
- **Sites Completed under BCP:** As of March 31, 2012, DEC has issued 112 Certificates of Completion (COC) for BCP sites since the program's inception.

## FINANCIAL ELEMENTS

Investigation and remediation are carried out under state oversight. Once remediation is completed, DEC issues a COC, which entitles the BCP party to a state liability limitation (with standard reservations) and to claim various tax credits.

### Incentives

<http://www.dec.ny.gov/chemical/8450.html> (DEC's main BCP webpage)

<http://www.tax.ny.gov/pdf/publications/multi/pub300.pdf> (New York State Department of Taxation and Finance's publication *New York State Tax Credits Available for Remediated Brownfields*)

### Liability Relief Provisions

<http://www.dec.ny.gov/regs/4372.html#15095> (BCP COCs)

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Cleanups under the BCP must be protective of public health and the environment based on remedy selection criteria including the current, future and reasonably anticipated land use of the site. New York State law prescribes a multi-track approach for the remediation of contamination: Track 1 (unrestricted use); Track 2 (restricted use with generic soil cleanup objectives); Track 3 (restricted use with modified soil cleanup objectives); and Track 4 (restricted use with site-specific soil cleanup objectives). A responsible party (RP) must also conduct any necessary off-site remediation. Post cleanup, the remedial party submits periodic certifications that confirm that the required institutional and/or engineering controls are in place and effective.

<http://www.dec.ny.gov/regs/4372.html#15096> (BCP Remedial Program)

### Contaminants Covered

Hazardous waste (including hazardous substances) and petroleum contaminants are eligible under the BCP.



## Institutional Controls (IC)

ICs and/or engineering controls are utilized in the BCP. Environmental easements are required for sites that rely upon one or more institutional and/or engineering controls. The required controls, as well as operation, maintenance and/or monitoring requirements, are set forth in each site's Site Management Plan (SMP).

- **IC Tracking:** DEC tracks all institutional and engineering controls, and municipalities have a statutory obligation to coordinate with DEC regarding any permit or authorization if a site has an environmental easement.
- **IC Oversight:** DEC reviews and approves all aspects of the cleanup, including institutional and engineering controls.
- **IC Monitoring:** DEC monitors institutional and engineering controls. Post cleanup, the remedial party submits periodic certifications that confirm that the controls are in place and effective.

## General Websites

The following websites provide additional information on the BCP as well as other DER Remedial Programs:

<http://www.dec.ny.gov/regulations/2393.html> (Remediation Guidance and Policy Documents, including State Regulation)

<http://www.dec.ny.gov/chemical/48236.html> (Finalizing Remedial Projects)

<http://www.dec.ny.gov/chemical/61092.html> (Contaminated Sites)

## Remedial Site Database

DEC offers access to site information in the state's remedial programs and spill database in a searchable format.

<http://www.dec.ny.gov/chemical/8437.html> (DEC's Environmental Site Database Search)

## PROGRAM HIGHLIGHTS – REMINGTON LOFTS, NORTH TONAWANDA, NEW YORK

By providing cleanup oversight, liability relief, and tax credits for cleanup and redevelopment, the Brownfield Cleanup Program (BCP)—a Section 128(a) Response Program grantee—was instrumental in this site's transformation. From 1925 to the 1970s, the property was occupied by the Remington-Rand Corporation, an American manufacturer of office equipment. Since the mid 1970s, various commercial tenants utilized the property, including a chemical company, building contractors, warehousing, and furniture and cabinetry makers. Prior to remediation, several decaying buildings remained onsite, a reminder of its industrial past. Known or suspected site contamination included petroleum, chlorinated solvents, polycyclic aromatic hydrocarbons (PAHs), metals, and polychlorinated biphenyls (PCBs). The remedial action workplan developed through the BCP included excavating impacted soil, removing and properly disposing PCB containing transformers, and installing a sub-slab vapor extraction system to remove soil vapors that might enter the building. The current site owner acquired the property several years ago with the intent of creating a "live-work-play" center, combining residential and commercial uses. The complex includes 81 loft apartments, a yoga center, salon, and a new restaurant/oyster bar called the Remington Tavern. The project utilized a shuttered building, built for industry over 100 years ago, to create a modern space that is attracting new residents and business owners to the town.



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## LAND PROGRAMS ADMINISTERED BY OTHER STATE AGENCIES

Brownfield Opportunity Areas (BOA) Program, administered by New York State Department of State – The BOA Program provides technical and financial assistance to municipalities and community-based organizations to conduct area-wide redevelopment planning and assessments on strategic brownfield sites. <http://www.dos.ny.gov/communitieswaterfronts/grantOpportunities/boagrants.html>

## OTHER VOLUNTARY RESPONSE PROGRAMS

Environmental Restoration Program – The Environmental Restoration Program provides grants to municipalities to reimburse up to 90percent of onsite eligible costs and up to 100percent of off-site eligible costs for site investigation and remediation activities. Applications are not being accepted at this time due to a lack of funding. <http://www.dec.ny.gov/chemical/8444.html>

## Enforcement Programs

**Spill Response Program** – The purpose of the Spill Response Program is to protect public health and the environment by ensuring a timely and appropriate response to unauthorized spills and discharges of contaminants. <http://www.dec.ny.gov/chemical/8428.html>

**Superfund Program** – The mission of the state Superfund Program is to identify and characterize suspected inactive hazardous waste disposal sites (sites) and to investigate and remediate those sites that have consequential amounts of hazardous waste which pose a significant threat to public health and the environment. <http://www.dec.ny.gov/chemical/8439.html>

**Hazardous Waste Management Program** – Under the Hazardous Waste Management Program, the state regulates all aspects of hazardous waste management, including: generators, transporters and treatment, storage and disposal facilities. <http://www.dec.ny.gov/chemical/8486.html>

## Puerto Rico Environmental Quality Board (PREQB) Property Redevelopment and Voluntary Cleanup Program (PRVCP)

P.O. Box 11488  
San Juan, Puerto Rico 00910)  
<http://www.jca.gobierno.pr>

Contact(s): Wilmarie Rivera  
[wilmarierivera@jca.gobierno.pr](mailto:wilmarierivera@jca.gobierno.pr)  
787-767-8181 x 6129

### Program Overview

- Brownfields Program
- Cost to Enter the Program: N/A

### PROGRAM

In 2000, Puerto Rico began the development of the Property Redevelopment and Voluntary Cleanup Program (PRVCP) under a state assistant grant from EPA. The establishment of the PRVCP will facilitate the cleanup and/or redevelopment of brownfields within the island. Incentives for participation in the program will include liability relief for prospective purchasers and lenders, cleanup certification, Memorandum of Understanding between PREQB and EPA, and agreements between interested parties.

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** PREQB will establish a reasonable cost to enter into the PRVCP.
- **Sites Enrolled in VCP:** N/A.
- **Sites Completed under VCP:** N/A.

### FINANCIAL ELEMENTS

#### Assessment and Cleanup Funding

N/A

#### Incentives

- PREQB is evaluating tax incentives to be used in the PRVCP.

#### Liability Relief Provisions

PREQB has the authority to issue cleanup letters and completion letters.

### PROGRAM ELEMENTS

#### Methods/Standards/Controls

PREQB is developing the procedures, cleanup standards, and methods to be used in the PRVCP.

#### Contaminants Covered

PREQB is developing the list of chemicals of concern to be addressed under the PRVCP.

#### Institutional Controls (IC)

N/A.

### PROGRAM HIGHLIGHTS

EQB is currently working on the development of the PRVCP draft technical guidance in accordance with EQB law #416. An internal technical committee was established to assist with the review and development of the draft guidelines.

## Virgin Island Voluntary Response Program (VIVRP) and Brownfields Program

Virgin Islands Division of Environmental Protection  
Department of Planning & Natural Resources (DPNR)

45 Mars Hills  
Frederiksted, VI 00841

<http://brownfields.dpnr.gov.vi/>

Contact(s): Dr. Clanicia Pelle  
[clanicia.pelle@dpnr.gov.vi](mailto:clanicia.pelle@dpnr.gov.vi)  
340- 773-1082

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$5,000 or one percent of the actual costs of remediation

## PROGRAM

To operate and expand its brownfields program, the Virgin Islands continue to make progress to establish a Voluntary Cleanup Program (VCP), which will address the cleanup and/or redevelopment of brownfields within the Virgin Islands (VI). The VCP will be designed to return brownfields to a useable condition. Cleanup will be performed under a memorandum of agreement between the Department of Planning and Natural Resources-Division of Environmental Protection (DPNR-DEP) and the participant.

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** Registration fees to be collected from persons conducting voluntary remediation to defray the actual reasonable costs of the voluntary remediation program expended at the site not to exceed the lesser of \$5,000 or one percent of the actual costs of remediation; however, no registration fee is required when the person conducting voluntary remediation is an agency, department or authority of the Virgin Islands' government.
- **Sites Enrolled in VCP:** N/A.
- **Sites Completed under VCP:** N/A.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

N/A

### Incentives

As a part of the VRP development, the Commission may provide tax credits or benefits for cleanup and redevelopment activities.

### Liability Relief Provisions

N/A.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

PREQB is developing the procedures, cleanup standards, and methods to be used in the PRVCP.

### Contaminants Covered

All sites that meet the definition of a "brownfield" as defined in Section 553-1(e) of the VIVRP Rules and Regulations are eligible for participation in the VIVRP.

### Institutional Controls (IC)

Land use controls, including ICs, can be used in conjunction with remediation in the VIVRP.

## PROGRAM HIGHLIGHTS

Following the enactment of the VI Brownfield Revitalization and Environmental Restoration Act in 2008, the program is finalizing the signatures for the promulgation of its final drafted rules and regulations. To date the program has inventoried 141 sites and assessed 20. Currently, the program is seeking a professional services contractor to assist the division with conducting Phase I site assessments.

## OTHER LAND PROGRAMS

### Underground Storage Tanks (UST) Program

<http://underground-storage-tank.dpnr.gov.vi/>

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# EPA REGION 3

## Voluntary Cleanup Program (VCP)

District of Columbia Department of the Environment  
1200 First St., NE, 5th Floor  
Washington, DC 20002  
<http://www.ddoe.dc.gov>

Contact(s): James Sweeney  
[james.sweeney@dc.gov](mailto:james.sweeney@dc.gov)  
202-535-2289

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$10,000
- Liability Relief Provisions
- Possible Tax Incentives

## PROGRAM

On June 15, 2001, the Brownfield Revitalization Amendment Act of 2000 became effective. The Act established the Voluntary Cleanup Program (VCP) and a brownfields program, and provides for long-term stewardship of sites that have been cleaned up under these programs. The Act also authorized tax and other incentives for development of contaminated property, and amended provisions of the Tax Increment Financing Authorization Act of 1998, National Capital Revitalization Corporation Act of 1998, and the District of Columbia Community Development Act of 1975 to incorporate and support the cleanup and redevelopment of contaminated property. As of February 2011, the tax incentive portion of the act had not yet been implemented.

In late 2010, amendments to the Brownfield Revitalization Act were enacted which authorize the District to establish a program for responding to releases of hazardous substances. This Superfund-type program is currently under development, including the drafting of regulations to implement the program. <http://www.ddoe.dc.gov>

- **Funding Source(s) for the Program:** Appropriated funds and federal brownfields grants.
- **Cost to enter program or fees for service:** The application fee to enter the District's VCP is \$10,000.
- **Sites Enrolled in VCP:** As of June 2012, 23 sites are enrolled in the program.
- **Sites Completed under VCP:** As of June 2012, 11 sites have been completed since the program's inception.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

Participants may receive grants (subject to the availability of funds in the Clean Land Fund), loans and tax credits to offset real property taxes and business franchise taxes.

### Incentives

Participants may receive tax credits to offset real property taxes and business franchise taxes.

### Liability Relief Provisions

The Brownfield Revitalization Amendment Act of 2000 authorizes a civil penalty of up to \$50,000 and strict, joint and several liability for the unlawful release of any hazardous substance. It does not authorize punitive damages or retroactive liability.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

The District is developing hazardous substance cleanup standards. The District Department of the Environment (DDOE) must publish cleanup standards for contaminated properties under the VCP that include ground water, surface water and soil standards. Until these cleanup standards are published, the VCP will use the District's Water Pollution Control Act ground water standards and federal Regional Screening Levels (RSL). For petroleum related contaminants DDOE uses the District's Leaking Underground Storage Tank (LUST) program standards.

### Institutional Controls (IC)

The Brownfield Revitalization Amendment Act of 2000 authorizes DDOE to create, maintain and disseminate records, informational systems, and educational materials that are necessary to protect public health and the environment at contaminated properties cleaned up under the Act. IC-related activities under DDOE may include the following.

- **IC Tracking:** The Brownfield Revitalization Amendment Act of 2000 authorizes DDOE to create an IC tracking process.
- **IC Oversight:** The Brownfield Revitalization Amendment Act of 2000 authorizes DDOE to create an IC oversight process.
- **IC Monitoring:** The Brownfield Revitalization Amendment Act of 2000 authorizes DDOE to create an IC monitoring process.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.doe.dc.gov>

## PROGRAM HIGHLIGHTS

The Capital Area Food Bank (CAFB) serves as the central supplier for more than 700 food pantries and nonprofits assisting more than 680,000 people in the D.C. area, distributing up to 33 million pounds of food per year. In order to address a growing hunger crisis, CAFB was in need of a larger facility. A site was found at 4900 Puerto Rico Avenue, NE. The site was contaminated with petroleum hydrocarbons and metals in soil and ground water. With oversight DDOE's VCP, an existing warehouse was demolished, the site was remediated, and a new 123,000-square foot facility was constructed that doubled the food bank's current storage space and increased its freezer and refrigerator capacity. CAFB opened its new facility on July 31, 2012.



Before: Old Warehouse



After: New Facility

## OTHER LAND PROGRAMS

### Underground Storage Tanks (UST) and Leaking Underground Storage Tanks (LUST) Program

<http://www.doe.dc.gov>

## Voluntary Cleanup Program (VCP) and Brownfields Development Program (BDP)

Delaware Department of Natural Resources and Environmental Control (DNREC)  
Division of Air and Waste Management  
Site Investigation and Restoration Branch  
391 Lukens Drive  
New Castle, DE 19720-4801  
<http://www.awm.delaware.gov/>

Contact(s): James Poling  
[james.poling@state.de.us](mailto:james.poling@state.de.us)  
302-395-2600

### Program Overview

- Brownfields Program
- Cost to Enter the Program: Oversight fees
- MOA with EPA Region 3
- Liability Relief Provisions
- Tax Incentives
- Brownfields Advisory Committee (BAC)

## PROGRAM

In 1990, Delaware enacted its Hazardous Substance Cleanup Act (HSCA) to deal with sites potentially contaminated with hazardous substance releases in the state that will not be addressed under the federal Superfund Program. Three major programs are administered under the HSCA. They are the Voluntary Cleanup Program (VCP), the Brownfields Development Program (BDP), and the HSCA Enforcement Program.

[http://www.awm.delaware.gov/SIRB/Pages/Voluntary\\_Cleanup\\_Program.aspx](http://www.awm.delaware.gov/SIRB/Pages/Voluntary_Cleanup_Program.aspx)

<http://www.awm.delaware.gov/SIRB/Pages/Brownfields.aspx>

[http://www.awm.delaware.gov/SIRB/Pages/SIRB\\_HSCA\\_program.aspx](http://www.awm.delaware.gov/SIRB/Pages/SIRB_HSCA_program.aspx)

- **Funding Source(s) for the Program:** The majority of funding for administrative and staff costs come from the federal grants (10percent) and the Hazardous Substances Cleanup Act Fund (HSCAF) (90percent).
- **Cost to enter program or fees for service:** There is no cost to enter into the BDP and the VCP. There are oversight costs for investigative or remedial activities for DNREC staff time. To fund the state's VCP oversight, participants are required to remit an initial deposit up to a maximum of \$5,000. Additional deposits will be requested based on the oversight cost estimate as the site cleanup progresses. Any deposit funds not expended by the state are returned to the participant.
- **Sites Enrolled in VCP:** As of September 2012, there are 183 sites in the VCP and 166 sites in the BDP.
- **Sites Completed under VCP:** As of September 2012, 138 sites have been completed under the VCP and the BDP.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance are available to assist with brownfields reuse projects.

<http://www.awm.delaware.gov/SIRB/Pages/SIRBLoansGrants.aspx>

### Incentives

- Tax credits of \$650/year per new job created related to cleanup and redevelopment (\$900/year in poverty areas).
- Participants receive tax credits based on the size of investment and number of new employees brought to the site. Grants of up to \$25,000 are available for site investigation and cleanup. In addition, low interest loans up to \$250,000 are also available for brownfields. About 700 sites have been identified for inclusion in the program, with cleanup underway at 96.
- Brownfields Matching Grants offered by the Delaware Economic development Office (DEDO) provide up to \$100,000 in matching grants.

### Liability Relief Provisions

The BDP offers complete liability protection for existing contamination to qualified brownfields developers provided that they enter into a Brownfields Development Agreement (BDA), and agree to clean up the contamination as specified in the Final Plan of Remedial Action approved by the Department prior to development of the site. Once the remedy is in place, the developer may request and receive a Certificate of Completion of Remedy (COCR) which provides liability protection as long as the requirements of the COCR are followed. The BDP offers liability protection for geographic or environmental media specific operable units identified within the site.



### **Brownfields Redevelopment Authorities (or similar)**

The Brownfields Advisory Committee (BAC) represents the public and community interest in Delaware's Brownfield Program by providing advice and assistance to DNREC's Division of Waste and Hazardous Substances (WHS). The BAC is composed of consultants, developers, local business men and women, and representatives from the Division of WHS.

<http://www.awm.delaware.gov/BAC/Pages/BACPortal.aspx>

## **PROGRAM ELEMENTS**

### **Methods/Standards/Controls**

Risk-based cleanup standards of  $1.0 \times 10^{-5}$  for carcinogenic risk and a Hazard Index of 1.0 for non-carcinogenic risks are used. DNREC provides guidance on the investigation and remediation of sites.

### **Contaminants Covered**

Hazardous substances as defined in HSCA are covered. In addition, petroleum contamination is covered on brownfields; asbestos and lead paint contamination are covered if found in the soil and surveys for each are allowable reimbursable costs.

### **Institutional Controls (IC)/Long Term Stewardship (LTS)**

ICs/land-use controls are allowed, including Uniform Environmental Covenants, operation and maintenance plans, and Ground Water Management Zones (GMZ). GMZs prevent the use of ground water and encourage development by allowing low levels of contamination to remain in the ground water while preventing exposure.

- **IC Tracking:** DNREC uses a database to track sites with ICs. This database is in the process of being improved.
- **IC Oversight:** DNREC performs inspections on a regular basis of the sites that have O&M requirements.
- **IC Monitoring:** DNREC reviews O&M reports for sites with O&M controls.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

[http://www.awm.delaware.gov/SIRB/Documents/Certifiedpercent20BFpercent20List\\_2010\\_November.pdf](http://www.awm.delaware.gov/SIRB/Documents/Certifiedpercent20BFpercent20List_2010_November.pdf)

## **PROGRAM HIGHLIGHTS**

DNREC used Section 128(a) Response Program funding to conduct a Phase I Environmental Site Assessment (ESA) at the Former Insteel Wire property in Wilmington. The ESA indicated unacceptable levels of arsenic and polycyclic aromatic hydrocarbons (PAHs) in the soil as well as high levels of inorganics. The human health risk assessment indicated that the cumulative risk from the presence of arsenic and PAHs was above DNREC's risk management level. The plan for redevelopment includes the demolition and renovation of some of the structures on the property and the construction of new warehouse buildings. The property will be redeveloped by Port Properties, LLC to build a commercial bulk storage facility. The property is located less than a mile from the Port of Wilmington and will support the Port and job creation.

## **OTHER LAND PROGRAMS**

### **Tanks Management Section (TMS)**

<http://www.dnrec.delaware.gov/tanks/Pages/default.aspx>

### **Superfund Program**

<http://www.nav.dnrec.delaware.gov/DEN3/>

## Brownfields Redevelopment Initiative Voluntary Cleanup Program (VCP)

Maryland Department of the Environment (MDE)  
1800 Washington Boulevard, Suite 625  
Baltimore, MD 21230-1719  
<http://www.mde.state.md.us/Pages/Home.aspx/>

Contact(s): James Carroll  
[JCarroll@mde.state.md.us](mailto:JCarroll@mde.state.md.us)  
410-537-3459

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$6,000
- MOA with EPA Region 3 (February 1997)
- Liability Relief Provisions
- Tax incentives

## PROGRAM

The Brownfields Revitalization Incentive Program was established in February 1997 as part of Maryland's Smart Growth policy. This program is intended to promote economic development, especially in distressed urban areas, by identifying and redeploying underutilized properties. Reusing real property makes efficient use of existing infrastructure while providing an alternative to developing open space that contributes to urban sprawl.

[http://www.mde.state.md.us/programs/Land/MarylandBrownfieldVCP/Pages/programs/landprograms/errp\\_brownfields/default.aspx](http://www.mde.state.md.us/programs/Land/MarylandBrownfieldVCP/Pages/programs/landprograms/errp_brownfields/default.aspx)

Established by the state legislature in 1997, Maryland's Voluntary Cleanup Program (VCP) is administered by the Maryland Department of the Environment (MDE) Land Management Administration's (LMA) Land Restoration Program (LRP) to provide state oversight for voluntary cleanups of properties contaminated with hazardous substances

[http://www.mde.state.md.us/programs/Land/MarylandBrownfieldVCP/MDVCPInformation/Pages/programs/landprograms/errp\\_brownfields/vcp\\_info/index.aspx](http://www.mde.state.md.us/programs/Land/MarylandBrownfieldVCP/MDVCPInformation/Pages/programs/landprograms/errp_brownfields/vcp_info/index.aspx)

- **Funding Source(s) for the Program:** State general fund (10percent), the state cleanup fund (10percent), and federal grants (80percent).
- **Cost to enter program or fees for service:** An initial fee of \$6,000 is collected from the first participant and all subsequent applications pay a \$2,000 fee.
- **Sites Enrolled in VCP:** As of June 30, 2012, 533 have been accepted into the VCP.
- **Sites Completed under VCP:** As of June 30, 2012, 322 sites have received either a No Further Requirements Determination or a Certificate of Completion (COC).

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance are available to assist with brownfields reuse projects.

[http://www.mde.state.md.us/programs/Land/MarylandBrownfieldVCP/Pages/programs/landprograms/errp\\_brownfields/bf\\_info/bffunding.aspx](http://www.mde.state.md.us/programs/Land/MarylandBrownfieldVCP/Pages/programs/landprograms/errp_brownfields/bf_info/bffunding.aspx)

### Incentives

Tax credits may be extended to 10 years in designated Enterprise Zones (EZ); incentive available in jurisdictions which agree to contribute 30percent of the increase to the state's Brownfields Revitalization Incentive Fund.

### Liability Relief Provisions

- VCP offers COCs or No Further Requirements Determination; sites contaminated after October 1, 1997, listed on the National Priorities List (NPL), or under active enforcement are not eligible.
- Maryland has strict, joint, and several liability designations, but provides for apportionment where there is a reasonable basis for determining a party's contribution. Under state law, the state program may impose liability for cleanup of substances disposed of before the date program was enacted. State has civil penalty authority up to \$25,000 per violation. Punitive damages are not available.
- Through the VCP, certain purchasers who did not cause or contribute to contamination may limit their retroactive liability upon purchase of the property. Amendments effective October 1, 2004 clarify that a person who is not a "responsible person" because he meets one of the statutory exclusions is entitled to "inculpable person" status. The new law also ensures liability protection.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

VCP provides a menu of cleanup options: uniform risk-based standards; site-specific risk assessment; federal/state soil standards or water quality standards; federal/state maximum contaminant levels (MCLs); and other federal/state standards. Site-specific risk assessments follow a Risk-Based Corrective Action (RBCA)-like process.

[http://www.mde.state.md.us/programs/Land/MarylandBrownfieldVCP/Pages/programs/landprograms/errp\\_brownfields/forms/index.aspx](http://www.mde.state.md.us/programs/Land/MarylandBrownfieldVCP/Pages/programs/landprograms/errp_brownfields/forms/index.aspx)

### Contaminants Covered

Polychlorinated biphenyls (PCBs) and oil (as of October 1, 2004) are covered; other contaminants accepted conditionally—petroleum (not exclusively, but along with other contaminants); and paint and asbestos (as long as they comply with all other applicable laws and regulations).

### Institutional Controls (IC)

ICs are allowed and are included in the No Further Requirements Determination (NFRD) or COC. The state notes that ICs “probably have resulted in more cleanups and more properties reused” and “also have probably lowered the cost of cleanups.

- **IC Tracking:** Institutional Controls/Land Use Controls (IC/LUCs) are tracked by the Maryland Department of the Environment’s Land Restoration Program. These documents are also recorded in the land records and sent to Miss Utility. Both programs are currently engaged in updating the Geographic Information System (GIS)-based website to ensure that sites with IC/LUCs are readily available to the general public.
- **IC Oversight:** When the VCP issues NFRDs or COCs with LUCs, the enforcement of the IC/LUC falls to the VCP through follow-up inspections.
- **IC Monitoring:** Other IC/LUCs associated with No Further Action (NFA) letters issued by the Controlled Hazardous Substance Enforcement Division are enforced by the Department and recorded with the land records.

The following Web address is a direct link to the state’s public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

[http://www.mde.state.md.us/programs/Land/MarylandBrownfieldVCP/mapping/Pages/programs/landprograms/errp\\_brownfields/mapping/index.aspx](http://www.mde.state.md.us/programs/Land/MarylandBrownfieldVCP/mapping/Pages/programs/landprograms/errp_brownfields/mapping/index.aspx)

## PROGRAM HIGHLIGHTS

The MDE Land Restoration Program (LRP) used Section 128(a) Response Program funding to make advances to its GIS website. The previous website was limited in its functionality and was not adequately serving internal and external end-users’ needs. The initial phase of upgrades to the website included streamlining the data structure to allow for a more user-friendly public website and data entry portal for LRP staff. The software employed in the upgrade is consistent with Governor O’Malley’s iMap initiative to reduce reprogramming costs. This approach allows for the cohesive development of a public mapping site that can integrate important programmatic elements. Once the baseline mapping site is functional, LRP plans to integrate the public mapping site data directly into Maryland iMap and develop the associated Web-based mapping system such that real-time data can be available to the public through Maryland iMap.

## OTHER LAND PROGRAMS

### Oil Pollution and Tank Management Programs

[http://www.mde.state.md.us/programs/Land/OilControl/Pages/programs/landprograms/oil\\_control/index.aspx](http://www.mde.state.md.us/programs/Land/OilControl/Pages/programs/landprograms/oil_control/index.aspx)

### Hazardous Waste Program

[http://www.mde.state.md.us/programs/Land/HazardousWaste/HazardousWasteHome/Pages/programs/landprograms/hazardous\\_waste/home/index.aspx](http://www.mde.state.md.us/programs/Land/HazardousWaste/HazardousWasteHome/Pages/programs/landprograms/hazardous_waste/home/index.aspx)

## Land Recycling and Cleanup Program

Pennsylvania Department of Environmental Protection (DEP)

P.O. Box 8471

Harrisburg, PA 17105-8471

<http://www.depweb.state.pa.us>

(click on “Environmental Cleanup & Brownfields” on the toolbar)

Contact(s): Troy Conrad

[tconrad@pa.gov](mailto:tconrad@pa.gov)

717-783-7816

### Program Overview

- Brownfields Program
- Cost to Enter the Program: Fees for services
- MOA with EPA Region 3 (April 2004)
- Liability Relief Provisions
- Brownfields Reimbursement Program
- Brownfields Development Area (BDA) Initiative

## PROGRAM

Pennsylvania’s Land Recycling Program—its Voluntary Cleanup Program—famously known as Act 2, encourages the voluntary cleanup and reuse of contaminated commercial and industrial sites. The Land Recycling Program (LRP) is built on four cornerstones that break down redevelopment obstacles: uniform cleanup standards; liability relief; standardized reviews and time limits; and financial assistance.

[http://www.depweb.state.pa.us/portal/server.pt/community/environmental\\_cleanup\\_brownfields/6049](http://www.depweb.state.pa.us/portal/server.pt/community/environmental_cleanup_brownfields/6049)

- **Funding Source(s) for the Program:** State cleanup fund provides the primary source of administrative costs and it is supplemented through Section 128(a) Response Program funding.
- **Cost to enter program or fees for service:** \$250 for statewide health final report, background final report and site-specific reports except final; \$500 for site-specific final report; no fee for Special Industrial Areas (SIA) reports; not required for regulated tank cleanups; and if combined reports are submitted, multiple fees apply.
- **Sites Enrolled in VCP:** As of December 31, 2011, 1,130 sites are currently enrolled in the program.
- **Sites Completed under VCP:** As of December 31, 2011, 3,952 sites have been completed under the program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance are available to assist with brownfields reuse projects.

[http://www.portal.state.pa.us/portal/server.pt/community/grants\\_loans/6012](http://www.portal.state.pa.us/portal/server.pt/community/grants_loans/6012)

### Incentives

- Job Creation Tax Credit Program created a tax credit of \$1,000 per new job for firms that increase employment by 25 jobs or 20percent within three years from start date (with program).
- Brownfield Tax Incentive – [http://www.portal.state.pa.us/portal/server.pt/community/brownfield\\_redevelopment/20540/brownfield\\_tax\\_incentive/1096759](http://www.portal.state.pa.us/portal/server.pt/community/brownfield_redevelopment/20540/brownfield_tax_incentive/1096759)
- Keystone Special Development Zone – An incentive-based tax credit program designed to foster redevelopment of former industrial and commercial sites in designated geographic zones. Businesses that provide job-creating economic development opportunities through the expansion of existing operations or the relocation of operations to the Commonwealth of Pennsylvania may be eligible for tax credits under this program.

### Liability Relief Provisions

- Program offers relief from liability for approved cleanups and potentially responsible parties (PRP) may participate. The program identifies risk-based standards for cleanup, simplifies the approval process, and limits future liability when standards are attained. Pennsylvania signed a Memorandum of Agreement (MOA) with EPA in April 2004 that clarifies that sites remediated under the state LRP may also satisfy requirements under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), Resource Conservation and Recovery Act (RCRA), or Toxic Substances Control Act (TSCA). This was the first One Cleanup Program MOA negotiated with EPA in the nation.

### Brownfields Action Team

The Brownfields Action Team (BAT) encompasses the other facets involved with a redevelopment project other than the remediation. BAT is responsible for expediting the remediation, reclamation, reuse, and redevelopment of brownfields and abandoned mine lands for locally identified high-priority redevelopment and reuse projects. BAT may be able to shorten the permitting process by involving all DEP

programs for a specific redevelopment effort as well as facilitating efforts with other state agencies. This can result in a significant savings of time and money for a project. [http://www.portal.state.pa.us/portal/server.pt/community/brownfield\\_redevelopment/20540](http://www.portal.state.pa.us/portal/server.pt/community/brownfield_redevelopment/20540)

## PROGRAM ELEMENTS

### Methods/Standards/Controls

The Cleanup Standards Scientific Advisory Board assists DEP in developing cleanup standards and identifying appropriate statistical and scientific procedures.

[http://www.portal.state.pa.us/portal/server.pt/community/guidance\\_technical\\_tools/20583](http://www.portal.state.pa.us/portal/server.pt/community/guidance_technical_tools/20583)

### Contaminants Covered

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.

The remediator selects which cleanup standard is best suited for their remediation project. The statewide health standards are provided at the following link.

[http://www.portal.state.pa.us/portal/server.pt/community/guidance\\_technical\\_tools/20583](http://www.portal.state.pa.us/portal/server.pt/community/guidance_technical_tools/20583)

### Institutional Controls (IC)

In late 2007, Act 68, the Uniform Environmental Covenants Act (UECA), was signed into law. Act 68 provides a standardized process for creating, documenting and assuring the enforceability of activity and use limitations on contaminated sites. Under UECA, an environmental covenant will be required whenever an engineering or IC is used to demonstrate the attainment of an Act 2 remediation standard for any cleanup conducted under an applicable Pennsylvania environmental law.

[http://www.portal.state.pa.us/portal/server.pt/community/land\\_recycling\\_program/20541/uniform\\_environmental\\_covenants\\_act/1034860](http://www.portal.state.pa.us/portal/server.pt/community/land_recycling_program/20541/uniform_environmental_covenants_act/1034860)

- **IC Tracking:** Environmental covenants created under the law will be recorded in county land records and in a state registry to be created by DEP.
- **IC Oversight and Monitoring:** The environmental covenants will be binding and enforceable on successive owners over time.
- **PA Activity and Use Limitation Registry:** A user friendly geographic information system (GIS)-based website that allows user to identify properties within the commonwealth where any type of Activity and Use Limitation (AUL) has been imposed and of which DEP has been informed. AULs are restrictions or obligations with respect to real property. The term includes engineering controls and ICs.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://brownfields.pasitesearch.com/>

## PROGRAM HIGHLIGHTS

With support from EPA's Section 128(a) Response Program, Pennsylvania held its 7th Annual Brownfields Conference in Altoona on September 27 and 28, 2011. The conference attracted local governments, community and economic development professionals, consulting firms, and state and federal environmental officials. The conference agenda reflected current areas of interest such as brownfield/commercial real estate forecasts, sustainable redevelopment, community outreach and planning, and innovative financing opportunities in challenging economic times. The conference also featured a tour of regional Altoona success stories including the DeGol Industrial Center, the Station Medical Center Mall complex, and the Penn State's Devorris Downtown Center and Sheetz Center for Entrepreneurial Excellence. Approximately 225 people attended the conference.

## OTHER LAND PROGRAMS

### Storage Tank Cleanup Program

[http://www.portal.state.pa.us/portal/server.pt/community/storage\\_tank\\_cleanup\\_program/20605](http://www.portal.state.pa.us/portal/server.pt/community/storage_tank_cleanup_program/20605)

### Hazardous Sites Cleanup Program

[http://www.portal.state.pa.us/portal/server.pt/community/hazardous\\_sites\\_cleanup\\_program/20600](http://www.portal.state.pa.us/portal/server.pt/community/hazardous_sites_cleanup_program/20600)

### RCRA Corrective Action Program

[http://www.portal.state.pa.us/portal/server.pt/community/treatment\\_storage\\_and\\_disposal\\_facilities/14082/rcra\\_corrective\\_action\\_program/1124370](http://www.portal.state.pa.us/portal/server.pt/community/treatment_storage_and_disposal_facilities/14082/rcra_corrective_action_program/1124370)

## Brownfields and Land Renewal Program Voluntary Remediation Program (VRP)

Virginia Department of Environmental Quality (DEQ)  
Division of Land Protection and Revitalization  
629 East Main Street,  
P.O. Box 1105  
Richmond, VA 23218  
[http://www.deq.virginia.gov/Programs/  
LandProtectionRevitalization/RemediationProgram.aspx](http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/RemediationProgram.aspx)

Contact(s): Durwood Willis  
Office of Remediation Programs  
[durwood.willis@deq.virginia.gov](mailto:durwood.willis@deq.virginia.gov)  
804-698-4192

Kevin Greene  
VRP  
[kevin.greene@deq.virginia.gov](mailto:kevin.greene@deq.virginia.gov)  
804-698-4236

J. Meade R. Anderson, CPG  
Brownfields  
[j.meade.anderson@deq.virginia.gov](mailto:j.meade.anderson@deq.virginia.gov)  
804-698-4179

### Program Overview

- Brownfields Program
- Cost to Enter the VRP : \$5,000 or 1percent of the cost of remediation
- MOA with EPA Region 3 (January 2002)
- Liability Relief Provisions
- Tax Incentives

## PROGRAM

Since 1997, Virginia has operated a program for voluntary cleanups of contaminated sites. Regulations provide a framework for selecting cleanup standards under the Voluntary Remediation Program (VRP) and sites are eligible to participate when remediation is not clearly mandated pursuant to a federal or state regulatory program.

<http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/RemediationProgram/VoluntaryRemediationProgram.aspx>

On March 12, 2004, Virginia issued an Interim Brownfields Manual. Virginia's Department of Environmental Quality's (DEQ) goal in implementing the Brownfields Program is to make its innovative and business oriented provisions substantive, user friendly and timely.

<http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/RemediationProgram/Brownfields.aspx>

- **Funding Source(s) for the Program:** EPA 128(a) Response Program grants.
- **Cost to enter program or fees for service:** \$5,000 or 1percent of the cost of remediation, whichever is less.
- **Sites Enrolled in Voluntary Cleanup Program:** As of August 1, 2012, 372 sites have enrolled in the VRP.
- **Sites Completed under Voluntary Cleanup Program:** As of August 1, 2012, 239 sites have received No Further Action (NFA) Certificates.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

Costs for site cleanup are borne by the program participants, however the Voluntary Resources Authority (VRA) is available to provide low interest loans for funding brownfields remediation projects for localities and governmental authorities across the commonwealth, through the Virginia Pooled Financing Program (VPFP) and the Virginia Water Facilities Revolving Fund (VWFRF).

<http://www.vra.state.va.us/projectfinancing.shtml>

### Incentives

Defines environmental restoration sites holding Certification of Satisfactory Completion of Remediation (Certificate) as a separate class of property and allows local governments to adopt an ordinance partially or fully exempting that class from taxation.

<http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/RemediationProgram/VoluntaryRemediationProgram/TaxIncentives.aspx>

### Liability Relief Provisions

Virginia's Brownfields Law protects bona fide prospective purchasers (BFPP) and innocent landowners from having to conduct containment or cleanup under Virginia's air, water and waste laws at a brownfield site if they meet the statutory definitions and the additional requirements in the statute, however appropriate care is required. There is no fee to obtain a BFPP letter.

[http://www.deq.virginia.gov/Portals/0/DEQ/Land/RemediationPrograms/Brownfields/BROWNFIELDS\\_MANUAL-BC-12-29-2009.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/Land/RemediationPrograms/Brownfields/BROWNFIELDS_MANUAL-BC-12-29-2009.pdf)

## PROGRAM ELEMENTS

### Methods/Standards/Controls

The Program uses a Risk-Based Corrective Action process that utilizes ICs and engineering controls recorded with the deed for the property. Applicants have a choice of remediation standards: Tier I (background); Tier II (look-up values adopted/modified from EPA standards); or Tier III (risk-based, including ICs). Tier III may also include a site-specific risk assessment based on methodology derived from the Risk Assessment Guidance for Superfund. <http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/RemediationProgram/VoluntaryRemediationProgram/VRPRiskAssessmentGuidance.aspx>

### Contaminants Covered

Typical contaminants covered include volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), Metals, Pesticides and Herbicides. Petroleum and polychlorinated biphenyls (PCBs) can be addressed by VRP, if not regulated under another program. <http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/RemediationProgram/VoluntaryRemediationProgram/GuidanceandRegulations.aspx>

### Institutional Controls (IC)

ICs are allowed; however, Virginia does not have a long-term stewardship program for its state cleanup program or for its Voluntary Cleanup Program. UECA laws went into effect in July 2010; regulations went into effect on November 9, 2011 and the use of UECA is voluntary.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/RemediationProgram/Brownfields/BrownfieldsforSale.aspx>  
<http://www.deq.virginia.gov/Programs/LandProtectionRevitalization/RemediationProgram/VoluntaryRemediationProgram/PublicInformation.aspx>

### Site Specific Assessment (SSA)

The Brownfields Program has completed a number of site-specific assessments of property through contracts with local governments to conduct Phase I and Phase II Environmental Site Assessments or further characterization of existing properties in order to facilitate property sales, purchases and/or redevelopments. Due to funding issues it is unlikely the program will be able to conduct future SSA work.

### Accelerated Dry Cleaner Process (ADCRP)

The purpose of the ADCRP is to streamline the site characterization and risk analysis of VRP dry cleaning sites, as well as to accelerate the implementation of appropriate remedial systems that adequately address environmental impacts in commercial buildings resulting from dry cleaning operations. The program is most applicable to sites without offsite contamination, and relies on self-certification of characterization and remediation by the participants.

### Virginia Brownfields Assistance Fund

The General Assembly allocated \$1 million for Fiscal Year 12 to be used for the purpose of promoting the restoration and redevelopment of brownfields and to address environmental problems or obstacles to reuse so that these sites can be effectively marketed to new economic development prospects. The Virginia Economic Development Partnership (VEDP) and DEQ awarded 17 grants to local governments from this funding to date.

## PROGRAM HIGHLIGHTS

Columbia Gas of Virginia (CGV) continues to remediate the former Portsmouth Manufactured Gas Plant (MGP). The former MGP operated from approximately 1856 through 1956. After operation of the MGP ceased, the site was sold and developed with residential apartments. Contamination from the MGP was discovered in the early 1990s when the owner of the apartments performed environmental investigations. CGV, as a corporate successor to the former MGP, enrolled the property in 1997 in the VRP funded by the 128(a) Response Program to address the contamination. The residents of the apartments were relocated and the buildings demolished. Contaminated soils were removed from the site and a clean soil cap was installed as part of the restoration. Reuse of the site included construction of Fort Nelson Park, which is owned by CGV and leased to the City of Portsmouth for public use. The park has strict use restrictions that prohibit ground water use, residential use, and excavations below the clean soil cap. Other remedial actions off-site are continuing.



The new Fort Nelson Park in Portsmouth

## OTHER LAND PROGRAMS

### VA DEQ Division of Land Protection & Revitalization

<http://www.deq.virginia.gov/Programs/LandProtectionRevitalization.aspx>

## Voluntary Remediation Program (VRP)

West Virginia Department of Environmental Protection (DEP)

Division of Land Restoration

601 57th Street, SE

Charleston, WV 25304-2345

<http://www.dep.wv.gov/dlr/Pages/default.aspx>

Contact(s): Patty Hickman

[patricia.a.hickman@wv.gov](mailto:patricia.a.hickman@wv.gov)

304-238-1220

### Program Overview

- Cost to Enter the Program: Fee is calculated according to the size of property
- Liability Relief Provisions
- Licensed Remediation Specialists (LRS) Program
- Brownfields Assistance Centers

## PROGRAM

The Voluntary Remediation and Redevelopment Act (VRRRA) encourages voluntary remediation and redevelopment through an administrative program set out in the West Virginia Code of State Regulations, Title 60, Series 3 entitled the Voluntary Remediation and Redevelopment Rule (the Rule), which became effective on July 1, 1997. The VRRRA limits enforcement actions by DEP, provides financial incentives to entice investment in brownfields, and limits liability under environmental laws and rules for those who remediate sites under the standards provided in the Rule. <http://www.dep.wv.gov/dlr/oer/voluntarymain/Pages/default.aspx>

- **Funding Source(s) for the Program:** State General Fund and federal grants.
- **Cost to enter program or fees for service:** Fee is calculated according to the size of property.
- **Sites Enrolled in VCP:** As of July 2012, 212 sites have entered the Voluntary Remediation Program (VRP).
- **Sites Completed under VCP:** As of July 2012, 122 Certificates of Completion (COC) have been issued.

## FINANCIAL ELEMENTS

### Liability Relief Provisions

- The VRP offers COCs that provide liability relief.
- Any person demonstrating compliance with the applicable standards whether by remediation or where the site assessment shows that the contamination at the site meets applicable standards, shall be relieved of further liability for the remediation of the site. Contamination identified in the remediation agreement submitted to and approved by the DEP shall not be subject to citizen suites or contribution actions

### Licensed Remediation Specialist (LRS) Program

Under the VRRRA, Licensed Remediation Specialists (LRS) are required to supervise activities during cleanups pursuant to VRRRA.

<http://www.dep.wv.gov/dlr/oer/voluntarymain/lrs/Pages/LRS.aspx>

### Brownfields Redevelopment Authorities (or similar)

**Brownfields Assistance Centers** – Many small communities in rural West Virginia do not have the staff or technical expertise to undertake brownfields redevelopment projects on their own. The West Virginia Brownfields Assistance Centers, located at West Virginia University and Marshall University, were created to empower communities to plan and implement brownfields redevelopment projects. The Brownfields Assistance Centers (BAC) are available to assist local governments, nonprofits, prospective developers and other stakeholders in navigating the brownfields redevelopment process in West Virginia. <http://www.wvbrownfields.org/>

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Risk assessment is used to make two important decisions about what is done at sites in the VRP. First, risk assessment is used to decide whether a site needs to be cleaned up to reduce risk to human health. Second, if cleanup is needed, risk assessment helps determine how much cleanup is needed. <http://www.dep.wv.gov/dlr/oer/voluntarymain/Documents/Riskpercent20Assessmentpercent20Guide.pdf>

### Contaminants Covered

No exclusions.

### Institutional Controls (IC)

DEP established by rule the criteria for deed recordation of land-use covenants and contains all necessary deed restrictions. DEP causes all land-use covenants to appear in the chain of title by deed and be recorded properly in the office of the county clerk where the site is located. If



institutional and engineering controls are used, in whole or in part, to achieve a remediation standard, DEP directs that a land-use covenant be applied.

- **IC Tracking:** The Office of Environmental Remediation is continuing to work with the Information Technology (IT) and Geographic Information System (GIS) sections of DEP to complement the VRP sites on the agency's interactive mapper with the development of links to the recorded Land Use Controls (LUC) so that they may be reviewed online or downloaded by interested parties.
- **IC Oversight:** Effective January, 2008 DEP implemented a policy requiring an inspection and reporting paragraph be inserted in all future recorded land-use covenants, requiring self-inspection of the restrictions contained in the LUC, and submittal of the inspection report to the agency by the property owner. The frequency of the inspection is dependent upon the restrictions imposed by the LUC, but in no case less frequent than once per year.
- **IC Monitoring:** DEP is a member of the Miss Utility of West Virginia, the one-call system for notification regarding excavation activities as potentially related to recorded LUCs. West Virginia DEP has also contracted with Terradex to continue to improve tracking and response to dig tickets. When a notification is received it is initially reviewed relative to the location of the MISS Utility dig-ticket and recorded covenant sites using Goggle Earth and the KML covenant files available from the agency. Each notification received is forwarded to the respective project manager for review and follow-up as appropriate. Project managers also conduct routine inspections of VRP sites with LUCs. For the period of April 2011 through March 2012, DEP received 1358 notifications of excavation activities for sites within the MISS Utility grid network.

The following Web page contains the link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs (see land use covenants on the Web page to download the information). This link also provides additional information regarding contaminated sites in the state. <http://www.dep.wv.gov/dlr/oer/voluntarymain/Pages/default.aspx>

DEP established an Institutional Controls Focus Group to provide an independent perspective to DEP about the feasibility of utilizing a public-private land stewardship program for the long-term safeguarding of remediated sites using ICs and engineering controls (EC) (collectively, IECs) to ensure that the remedy remains protective of human health and the environment. The WV Institutional Controls Focus Group Interim Report can be found at: <http://www.dep.wv.gov/dlr/oer/voluntarymain/Pages/default.aspx>. DEP introduced legislation during the 2012 WV Legislative Session to establish a Land Stewardship Trust. Although the legislation did not receive passage during this session, it is slated for presentation during the 2013 WV Legislative Session due to the high level of interest from stakeholders in establishing such a Trust.

## PROGRAM HIGHLIGHTS

The West Virginia Brownfield Assistance Centers (BAC) at Marshall University and West Virginia University initiated the WV Redevelopment Collaborative, funded through a private foundation, in order to provide project assistance. The Decision Enhancer Tool (DET) is a resource for communities to collect site information to develop a 'site story' to guide revitalization planning, assist with completing applications for funding, and attracting potential developers and investors. The BACs have conducted workshops around the state to educate communities and organizations on how the DET may be used. The BACs also held a Redevelopment War Games Workshop to provide opportunities for interaction between leaders from state agencies, community foundations, financial institutions, and nonprofit organizations, in training exercises to build a framework to examine collective goals and challenges in strengthening the redevelopment process. West Virginia Department of Environmental Protection used Section 128(a) Response Program funding to assist the BACs with the Annual West Virginia Brownfields Conference, where these resources will be showcased, along with success stories from involved communities. The conference attendance has attracted over 200 participants in recent years. It has keynote speakers ranging from the Governor, Congressional representatives, and top business and community leaders; it is the premiere state event for networking amongst brownfields redevelopment professionals.

## OTHER LAND PROGRAMS

### Leaking Tank Program

<http://www.dep.wv.gov/dlr/oer/lustmain/Pages/default.aspx>

### Superfund Program

<http://www.dep.wv.gov/dlr/oer/superfund/Pages/default.aspx>



At the spring 2012 Redevelopment "War Games" groups provided feedback on the redevelopment process defined by the BAC and how their organizations fit into that process

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# EPA REGION 4

## Brownfields Redevelopment and Voluntary Cleanup Program (VCP)

Alabama Department of Environmental Management (ADEM)  
Land Division  
1400 Coliseum Boulevard  
Montgomery, AL 36110-2059  
<http://www.adem.state.al.us/programs/land/default.cnt>

Contact(s): Larry Norris  
Chief - Redevelopment Section  
[lan@adem.state.al.us](mailto:lan@adem.state.al.us)  
334-279-3053

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$2,810
- Oversight Fees
- Liability Relief Provisions
- Revolving Loan Fund
- Tax Incentives

## PROGRAM

Alabama's Brownfields Redevelopment and Voluntary Cleanup Program presents municipalities and developers with a wealth of opportunities and information. Reclaiming contaminated or unused sites and creating valuable, profitable and environmentally sound property benefits every member of the community.

<http://www.adem.state.al.us/programs/land/brownfields.cnt>

- **Funding Source(s) for the Program:** Federal grants (95percent) and Alabama Land Recycling and Economic Redevelopment Act (ALRERA) fees.
- **Cost to enter program or fees for service:** All applicants must pay a non-refundable application fee of \$2,810. Various designated programmatic fees cover state oversight costs.
- **Sites Enrolled in VCP:** As of July 2012, 86 sites are enrolled in the VCP.
- **Sites Completed under VCP:** As of July 2012, 249 sites have successfully completed requirements of the VCP and received Letters of Concurrence (no further action letters).

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance are available to assist with brownfields reuse projects.

- Industrial grants of up to \$375,000 can be adapted for brownfields purposes.
- Brownfields Revolving Loan Fund (RLF) targeted to counties and municipalities.  
<http://www.adem.state.al.us/programs/land/brownfields/bfredevelopment.cnt>

### Incentives

Tax credits and incentives are available, including the environmental cleanup deduction which allows businesses to deduct the qualified cleanup cost of hazardous substances in certain areas (brownfields) in the tax year the business pays or incurs the cost.

### Liability Relief Provisions

Program incentives include letters of concurrence providing limited liability protection for owners and operators and broad liability protection for prospective purchasers, lenders, and clean-hands parties after the receipt and review of a compliance certification.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Formal Risk-Based Corrective Action (RBCA) process is in place; state uses Alabama Risk-based Corrective Action Guidance and background information using the residential numbers for soil and below Maximum Contaminant Levels (MCLs) for ground water at sites not using ICs.

### Contaminants Covered

Program covers all types of contaminants and pollutants including, petroleum, asbestos, lead paint, and polychlorinated biphenyls (PCBs).

### Institutional Controls (IC)

Alabama has a long-term stewardship program for its state VCP, brownfields and Resource Conservation and Recovery Act (RCRA) sites.

- **IC Tracking:** A MS Excel database is used to track institutional and engineering controls at cleanup sites as part of the VCP and brownfields programs, and will be adapted to other programs. Environmental covenants are required by law for sites not returned to an unrestricted use scenario.
- **IC Oversight and Monitoring:** Sites using ICs are addressed through a site-specific risk assessment and have a longer term enabling mechanism (covenant) to ensure that ICs are maintained.

### Environmental Covenants

All sites remediated to less than unrestricted use standards are required to have an environmental covenant giving a description of the property, types of contaminants remaining onsite, and the use restrictions placed on the property.

The following Web address is a direct link to the state's public database that maintains an inventory of sites:  
[http://gis.adem.alabama.gov/adem\\_dash/GISINSP.html](http://gis.adem.alabama.gov/adem_dash/GISINSP.html)

Furthermore, the following link provides additional information regarding contaminated sites in the state:  
<http://www.adem.state.al.us/programs/land/landforms/128Spreadsheet.htm>

### PROGRAM HIGHLIGHTS

The former 12-acre Greif Brothers Corporation property located in Cullman had a variety of operations dating back over 90 years. Industrial activities started around 1917 with the Dremen Manufacturing Company. Over the years, the property was home to the Standard Industrial Laundry Company, the Porter Knitting Mills Company, the Acadia Planning Company, the King Pharr Canning Company, the Raible Division Sheet Metal and Stamping Company, the Cullman Supply Company, and finally the Greif Brothers Corporation (Greif). Greif manufactured steel drum containers from 4.5 to 85 gallons in size from 1947 until the plant's closure in 2002. The Greif property had numerous onsite buildings which housed a variety of operations ranging from machine, welding, painting, manufacturing to parts distribution and warehousing. Two of the larger buildings were damaged by fire in April 2010. The majority of the onsite buildings were deconstructed and all recycled/salvageable material was sold, donated or otherwise utilized by the City of Cullman. In addition to local usage, companies from as far as Louisiana came to purchase salvaged materials from the site. In all a total of 12 roll-offs of unsalvageable material went to the landfill, a rather minimal amount when considering a 12-acre lot that had about 200,000 square feet of buildings removed. The bulk of the work at the old industrial Greif property, located on Second Avenue in downtown Cullman, was paid for with a low-interest \$630,000 Brownfield Redevelopment Loan from the ADEM and a \$200,000 Site-specific Cleanup grant from EPA. In addition to the recycling effort, the site is also home to a phytoremediation project that will eventually bring in approximately 400 trees to safely filter dangerous chemicals out of the soil and ground water. The recycling efforts far exceeded project management expectations. The environmental manager for the project said, "Because that is such a hallmark site for the community, it's nice to know a bit of the Greif Brothers property will live on in other places. Metals have been recycled; portions of buildings have been set up on other sites and a lot of old lumber has been re-used at different locations. It does take a little extra time, but rather than land-filling valuable materials, this is worth the investment of time. We're very pleased and the work meets the mission of redeveloping brownfield properties, of not only re-working that property but also repurposing those materials for use." The multipurpose 12-acre site has a municipal police station, municipal vehicle maintenance facility, municipal landscaping workstation, emergency response supply storage facility, and a cleared, graveled area to the south designated for such community activities as "Oktoberfest." Part of that area is scheduled to have a gymnasium constructed in 2013.



The Master Redevelopment Plan for the Greif property in Cullman

### OTHER LAND PROGRAMS

#### Underground Storage Tanks (UST) Program

<http://adem.alabama.gov/programs/water/groundwater.cnt>

#### Superfund Program

<http://www.adem.state.al.us/programs/land/remediationCleanup.cnt>

## Brownfields Redevelopment Program

Florida Department of Environmental Protection (DEP)  
 Division of Waste Management  
 2600 Blair Stone Road  
 Tallahassee, FL 32399-2400  
<http://www.dep.state.fl.us/waste/>

Contact(s): Kim Walker  
 Brownfields Program Manager  
[kim.walker@dep.state.fl.us](mailto:kim.walker@dep.state.fl.us)  
 850-245-8934

### Program Overview

- Brownfields Program
- Cost to Enter the Program: No Fee
- MOA with EPA Region 4 (October 2005)
- Liability Relief Provisions
- Tax Incentives

## PROGRAM

The primary goals of the Brownfields Redevelopment Act are to reduce public health and environmental hazards on existing commercial and industrial sites that are abandoned or underused due to these hazards; create financial and regulatory incentives to encourage voluntary cleanup and redevelopment of sites; derive cleanup target levels and a process for obtaining a “No Further Action” letter using Risk-Based Corrective Action principles; and provide the opportunity for Environmental Equity and Justice.

<http://www.dep.state.fl.us/waste/categories/brownfields/default.htm>

- **Funding Source(s) for the Program:** State General Fund.
- **Cost to enter program or fees for service:** There is no fee to enter the Florida Brownfields Redevelopment Program. Sites that enter the program and that choose to apply for the annual Voluntary Cleanup Tax Credit must submit a \$250 fee with each annual tax credit application. There is no fee for sites that choose to conduct voluntary cleanup outside the Brownfields Redevelopment Program.
- **Sites Enrolled in Brownfields Program:** As of September 2012, 168 sites have voluntarily entered into brownfield site rehabilitation agreements with the Department of Environmental Protection (DEP).
- **Sites Completed under Brownfields Program:** As of September 2012, 54 sites have been issued final Site Rehabilitation Completion Orders (“No Further Action” letters) from DEP since the start of the program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance are available to assist with brownfields reuse projects.

[http://www.dep.state.fl.us/waste/categories/brownfields/pages/economic\\_incentives.htm#State](http://www.dep.state.fl.us/waste/categories/brownfields/pages/economic_incentives.htm#State)

### Incentives

- State sales tax credit on building materials (purchased on or after July 1, 2000) used for the construction of a redevelopment project (e.g., housing or mixed-use project) located in urban high crime area, enterprise and empowerment zones, Front Porch Communities, and designated brownfields or urban infill area.
- Job Bonus Refund – up to \$2,500 for each new job created in a brownfields area by an eligible business. The job bonus refund is available to companies that create new jobs at any site within a designated brownfields area. A company may qualify for the job bonus refund if the new business is a qualified target industry (QTI) in Florida or if the new business makes a capital investment of at least \$2,000,000, and creates at least 10 jobs.
- Tax credit (corporate income) of 50percent on voluntary cleanup activity that is integral to site rehabilitation, with a maximum of \$500,000 in tax credits, per site per year. The annual tax credit authorization is \$5,000,000. The Voluntary Cleanup Tax Credit program has issued a total of \$20,523,680 in tax credits since inception of the program in 1998.
- Loan guarantee program provides limited guarantees for up to five years on the primary lender’s financing for qualified redevelopment projects in brownfields areas.
- Other economic incentives, such as those associated with the Florida’s Enterprise Zone program, may be combined with brownfields incentives to create additional leverage for redevelopment projects.
- Local option sales surtax exemptions are available for sales made in urban infill and redevelopment areas.  
[http://www.dep.state.fl.us/waste/categories/brownfields/pages/economic\\_incentives.htm#State](http://www.dep.state.fl.us/waste/categories/brownfields/pages/economic_incentives.htm#State)

### Liability Relief Provisions

Under the Brownfields Redevelopment Program (as amended) non-responsible parties and certain responsible parties may receive liability protection from state and third party claims. Liability protection is provided for lenders serving in a fiduciary capacity on any site in a brownfields area. Nonprofit conservation organizations that purchase contaminated sites and are acting in the public interest also receive liability protection. When no further action at the brownfield site is approved the state issues a Site Rehabilitation Completion Order ("No Further Action") letter. [http://www.dep.state.fl.us/waste/categories/brownfields/pages/economic\\_incentives.htm#State](http://www.dep.state.fl.us/waste/categories/brownfields/pages/economic_incentives.htm#State)

### PROGRAM ELEMENTS

#### Methods/Standards/Controls

A Risk-Based Corrective Action (RBCA) process is in place that establishes default cleanup target levels for residential and commercial/ industrial scenarios, and provides additional flexibility in managing risk through use of site-specific risk assessment and appropriate institutional and engineering controls. <http://www.dep.state.fl.us/waste/categories/brownfields/pages/LawsandRules.htm>

#### Contaminants Covered

All contaminants are accepted including petroleum and polychlorinated biphenyls (PCBs).

#### Institutional Controls (IC)

ICs are key to a RBCA approach and are allowed in all cleanup program areas. The property owner must agree to the use of an institutional control such as a deed restriction or restrictive covenant on the property if an engineering control is the selected remedy.

- **IC Tracking:** DEP maintains a tracking system that tracks the use of ICs at sites. It is available online for public users.
- **IC Oversight and Monitoring:** ICs are audited by DEP every five years. The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state. <http://www.dep.state.fl.us/waste/categories/brownfields/pages/ICR.htm>

### PROGRAM HIGHLIGHTS

A nationally recognized brownfields success story, the Midtown Miami project transformed a former rail yard into an award winning, urban mixed-use development. Assessment of the 56-acre property revealed lead and arsenic contamination in soils and arsenic and petroleum contamination in ground water. Some of the contaminated soils were removed from the property and the remedial design incorporates the site's new buildings and other hardscape as engineering controls for contamination left in place. When completed, the project will include 600,000 square feet of retail space, 3,000 condo lofts, and 350 apartment units. The development value is expected to be \$1.2 billion and is estimated to generate 1,700 permanent jobs. The Midtown Miami project was awarded first place for Outstanding Redevelopment Study by the Gold Coast Section of the American Planning Association, Florida Chapter, in 2004. In 2009, the project was the U.S. EPA Region 4 recipient of the prestigious Phoenix Award for brownfields redevelopment.

### OTHER LAND PROGRAMS

#### Petroleum Cleanup Program

<http://www.dep.state.fl.us/waste/categories/pcp/default.htm>

#### Drycleaning Solvent Cleanup Program

<http://www.dep.state.fl.us/waste/categories/drycleaning/default.htm>

#### Superfund Program

<http://www.dep.state.fl.us/waste/categories/wc/pages/cleanup/pages/nplsites.htm>



Artist's rendering of the Midtown Miami Project

## Brownfields Program

Georgia Department of Natural Resources (DNR)  
Land Protection Branch  
2 Martin Luther King Jr. Drive SE  
Suite 1154 East Tower  
Atlanta, GA 30334  
[http://www.gaepd.org/Documents/index\\_haz.html](http://www.gaepd.org/Documents/index_haz.html)

Contact(s): Madeleine Kellam  
[Madeleine\\_Kellam@dnr.state.ga.us](mailto:Madeleine_Kellam@dnr.state.ga.us)  
404-656-7802

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$3,000
- Liability Relief Provisions
- Tax Incentives

## PROGRAM

Georgia's Brownfields Program was created in 2002, upon passage of the Hazardous Site Reuse and Redevelopment Act. The program encourages reuse of contaminated properties by granting broad liability relief for innocent prospective purchasers of properties with known releases of hazardous constituents or petroleum. In exchange for cleanup of contaminated soil and source material, qualified prospective purchasers are not liable to the state or to third parties for damages resulting from the pre-existing release, nor are they required to clean up ground water. Georgia also offers property tax relief for recovery of certified costs for brownfields investigation and cleanup. <http://www.gaepd.org/Documents/vrp.html> and <http://www.gaepd.org/Documents/brownfields.html>

- **Funding Source(s) for the Program:** Federal grants (100percent).
- **Cost to enter program or fees for service:** A non-refundable \$3,000 application review fee is required to participate in the program. Additional fees may be invoiced if the review costs exceed the initial fee.
- **Sites Enrolled:** As of July 2012, 414 properties were enrolled in the program; 26 of these were subsequently withdrawn.
- **Sites Completed:** As of July 2012, 236 properties completed cleanup under the program or certified compliance following site investigation under program oversight.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

No monetary grants or loans are provided for under the program; however, a limited amount of direct assistance, in the form of Targeted Brownfields Assessment (TBA), may be provided to eligible entities subject to state criteria and available funds.

### Incentives

Tax abatement provisions are available for recovery of certified investigation and cleanup costs at qualifying properties. [http://www.gaepd.org/Files\\_PDF/outreach/BFTax.pdf](http://www.gaepd.org/Files_PDF/outreach/BFTax.pdf)

### Liability Relief Provisions

The Hazardous Site Reuse and Redevelopment Act (Brownfields Act) (OCGA §12-8-200, as amended) provides liability relief (from third-party and ground water cleanup liability) for qualified prospective purchasers of contaminated property who voluntarily agree to remediate soil and source material to promulgated risk reduction standards. [http://www.gaepd.org/Files\\_PDF/outreach/BFGALeg.pdf](http://www.gaepd.org/Files_PDF/outreach/BFGALeg.pdf)

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Risk reduction standards promulgated under the Georgia Hazardous Site Response Act (the state Superfund statute) are used to determine compliance with cleanup requirements under the Brownfields Program. These risk-based standards provide four options for cleanup, all of which are designed to protect human health and prevent degradation of ground water quality: 1) standardized residential; 2) site-specific residential; 3) standardized non-residential; and 4) site-specific non-residential. For sites where these four standards cannot be applied, a fifth option provides for control measures (institutional controls, engineering controls, and or monitoring, as appropriate) to be maintained.

### Contaminants Covered

Hazardous constituents and petroleum are covered.



## Institutional Controls (IC)

Georgia has promulgated ICs provisions for brownfields that are on the state Superfund list and that have not certified compliance with a residential risk reduction standard for soil and ground water. In addition, Georgia has enacted a Uniform Environmental Covenants Act to establish an additional mechanism for creating and maintaining engineering and ICs. <http://www.gaepd.org/Documents/uec.html>

- **IC Tracking:** For non-listed brownfield properties (which do not have such regulatory requirements) Georgia uses Response Program Grant funding to inspect, monitor and track ICs. A database to capture all ICs has been developed under the Response Program Grant. Georgia's Brownfields Statute contains provisions for revocation of the limitation of liability for failure to conduct approved cleanups or failure to abide by land-use controls embodied in the certification of compliance with risk reduction standards or formalized under an environmental covenant.
- **IC Oversight:** Oversight and technical review is provided by environmental engineers and geologists under both the Brownfields and Response and Remediation Programs.
- **IC Monitoring:** Monitoring is required when dictated by statute, (i.e., at Hazardous Site Inventory (HSI)-listed sites and at sites that rely on long-term stewardship/ICs).

The following Web address is a direct link to the state's public brownfields database that maintains an inventory of brownfields and/or tracks ICs. [http://www.gaepd.org/Files\\_PDF/outreach/BFList.pdf](http://www.gaepd.org/Files_PDF/outreach/BFList.pdf)

The following Web address is a direct link to the state's public database that maintains an inventory of state Superfund sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state. <http://www.gaepd.org/Documents/hazsiteinv.html>

## PROGRAM HIGHLIGHTS

Groundbreaking took place on March 15, 2012 for a new brownfields redevelopment project in the Vine City neighborhood in southwest Atlanta. The project is located within the Historic Westside Village, a major redevelopment project that aims to revitalize the struggling in-town community surrounding the Atlanta University Center. In addition to the 12,000 students of the Atlanta University Center, the community contains mixed-income housing and historic businesses dating back to the civil rights era. The property once housed two, out-of-service gas stations that released petroleum into the environment. After the Georgia Department of Natural Resources (DNR) oversaw the completion of assessment and cleanup activities, the property was redeveloped into a department store. The new 74,000-square-foot Walmart retail store will provide area residents and students access to goods and services not easily found in the area. Vine City has been considered a "food desert" since its only grocery store closed in 2008, but the new Walmart will contain a grocery store offering fresh produce. In addition to offering consumer goods, the store will feature a pharmacy and a money center. The Walmart is also expected to bring 250 new jobs to the community and will likely spark additional economic activity.

## OTHER LAND PROGRAMS

### Hazardous Site Cleanup

[http://www.gaepd.org/Documents/epdforms\\_hwb.html#cleanup](http://www.gaepd.org/Documents/epdforms_hwb.html#cleanup)  
<http://www.gaepd.org/Documents/vrp.html>

### Underground Storage Tanks (UST) Program

[http://www.gaepd.org/Documents/techguide\\_lpb.html#ust](http://www.gaepd.org/Documents/techguide_lpb.html#ust)

## Brownfields Program

Kentucky Brownfield Redevelopment Program  
Kentucky Division of Compliance Assistance  
300 Fair Oaks Lane  
Frankfort, KY 40601  
<http://dca.ky.gov/brownfields>

Contact(s): Herb Petitjean  
[Herb.Petitjean@ky.gov](mailto:Herb.Petitjean@ky.gov)  
800-926-8111

### Program Overview

- Brownfield Redevelopment Program
- Notice of Completion Letter available for no charge (at present)
- Covenant Not to Sue available. Fee and reimbursement for expenses required, but may be waived in certain circumstances.
- Liability Relief Provisions
- Negotiations in progress with EPA Region 4 towards a MOA
- Tax Incentives

## PROGRAM

The Kentucky Brownfield Program seeks to help redevelop and revitalize properties that are abandoned or underutilized due to real or perceived contamination. There are an estimated 8,000 brownfields across the state. They include sites such as old gas stations, mine-scarred lands, abandoned factories, old schools and hospitals, and meth labs. The program offers comprehensive services to help with these problem properties. <http://dca.ky.gov/brownfields>.

- **Funding Source(s) for the Program:** State Hazardous Waste Management fund and federal grants.
- **Cost to enter program or fees for service:** Currently, no cost for cleanup utilizing informal program and leading to Notice of Completion letter. Entry into the Voluntary Environmental Remediation Program (VERP), which leads to Covenant Not to Sue (CNTS), is \$1,000 to \$2,500 based on acreage plus any oversight costs beyond that. Fees may be waived in certain circumstances.
- **Sites Enrolled in VCP:** As of August 2012, two properties are in the VERP.
- **Sites Completed under VCP:** As of August 2012, no sites have been completed under the VERP. Kentucky's Superfund program has addressed over 4,000 sites under the less formal process.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A limited number of free assessments are available each year to qualified local governments and nonprofits. Technical assistance, including help with identifying and applying for potential funding, is available to both public and private sector entities.

<http://dca.ky.gov/brownfields/Pages/Funding.aspx>.

### Incentives

Kentucky offers property tax incentives and income tax credits to individuals or businesses that complete a cabinet-approved cleanup on a qualified property. <http://dca.ky.gov/brownfields/Pages/TaxIncentives.aspx>.

### Liability Relief Provisions

Kentucky law offers liability defenses for bona fide prospective purchasers, contiguous property owners and innocent landowners. The requirements for these defenses are the same as under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). Volunteers may apply to obtain a CNTS under VERP. <http://dca.ky.gov/brownfields/Pages/Liability.aspx>

HB 465, passed in 2012, expands state bona fide prospective purchaser liability protection to petroleum releases.

<http://www.lrc.ky.gov/record/12RS/HB465/bill.doc>

Kentucky has entered into Memoranda of Agreement (MOA) negotiations with EPA that would provide federal liability protection for qualified properties that have been addressed under the state cleanup program.

### Brownfields Redevelopment Authorities (or similar)

- The Kentucky Brownfield Redevelopment Program has received a Brownfield Revolving Loan Fund (RLF) from EPA and plans to offer low-interest/no-interest loans and sub-grants starting in mid-2013.
- The Kentucky Housing Corporation is establishing a program to assist qualified persons and families of lower and moderate income to help defray the cost of assessment and decontamination of methamphetamine contamination of inhabitable properties. A person shall not be eligible for the program if convicted of a felony or found by the corporation to be responsible for contamination of the relevant property through methamphetamine (meth) production.
- Duke Energy, Louisville Gas and Electric and Kentucky Utilities have programs that offer reduced electrical rates for companies that redevelop on qualified brownfields.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

State Superfund statute provides four cleanup options:

- Proving that no action is required
- Proving that site/release can be managed with engineering/institutional controls
- Removal
- Any combination of the above

Kentucky uses the EPA Region 3 Screening Level Table. (The May 2011 version of the Table is currently in effect. The version used will be updated the next time Kentucky's cleanup regulations are revised, possibly later this year.)

### Contaminants Covered

Petroleum and polychlorinated biphenyls (PCBs) are covered, but petroleum releases are not eligible for CNTS if they fall under the Underground Storage Tank (UST) program. Asbestos and lead paint are covered if released in the environment and not part of a structure. Kentucky has contractor certification requirements and guidance for decontamination of meth labs in inhabitable properties.

### Institutional Controls (IC)

Kentucky adopted legislation that mirrors the Uniform Environmental Covenant Act. Kentucky Revised Statutes (KRS) 224.80-100 to 210 provide assurance that protective measures remain in place at properties where contamination is being managed onsite.

- **IC Tracking, Oversight, and Monitoring:** The party or applicant shall conduct annual (or other approved frequency) inspections of the engineering and ICs and shall make annual (or other approved frequency) certification to the cabinet that the controls remain protective of human health, safety and the environment. In accordance with KRS 224.01-400 (17), a review of environmental conditions at sites that have not been restored or remediated shall be conducted every five years to determine if additional action is necessary to protect human health or the environment.

## PROGRAM HIGHLIGHTS

Kentucky's Brownfield Redevelopment Program has a strong culture of in-depth, quality customer service. Nowhere is this better demonstrated than in the support services provided to communities and other entities applying for EPA Brownfields grants. Kentucky has a four-prong approach to supporting grant applicants.

- Provide notice of funding opportunities.
- Offer training, both in person and via the Web.
- Host grant parties, where applicants bring draft applications and share them to receive peer review.
- Offer one-on-one review and consultation.

## OTHER LAND PROGRAMS

### Underground Storage Tanks Branch

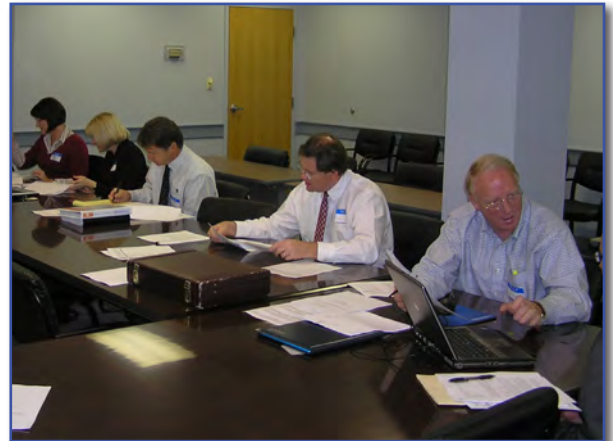
<http://waste.ky.gov/UST/Pages/default.aspx>

### Methamphetamine Lab Cleanup

<http://waste.ky.gov/SFB/MethLabCleanup/Pages/default.aspx>

### Superfund Branch

<http://waste.ky.gov/SFB/Pages/default.aspx>



Attendees at "Grant Party" conduct peer reviews of draft grant applications

## Mississippi Brownfield Program

Mississippi Department of Environmental Quality (MDEQ)  
Groundwater Assessment and Remediation Division  
P.O. Box 2261  
Jackson, MS 39225-2261

[http://www.deq.state.ms.us/MDEQ.nsf/page/GARD\\_brownfields?OpenDocument](http://www.deq.state.ms.us/MDEQ.nsf/page/GARD_brownfields?OpenDocument)

Contact(s): Trey Hess  
Brownfield Coordinator  
[Trey\\_Hess@deq.state.ms.us](mailto:Trey_Hess@deq.state.ms.us)  
601-961-5654

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$2,000 plus \$100/hour oversight, waived for Cities/Counties
- Liability Relief Provisions
- Tax Incentives

## PROGRAM

The Groundwater Assessment and Remediation Division (GARD) is responsible for the assessment and remediation of contaminated sites in the State of Mississippi. <http://www.brownfields.ms>.

- **Funding Source(s) for the Program:** State Brownfield Cleanup and Redevelopment Trust Fund, State General Fund, Voluntary Evaluation Program Trust Fund, and federal grants.
- **Cost to enter program or fees for service:** At the time an application is filed, the applicant agrees to pay the Mississippi Department of Environmental Quality (MDEQ) all reasonable and direct costs associated with the administration of the application at the rate of \$100/hour. Cost typically does not exceed 5percent of the total cost of the brownfield redevelopment project (e.g., Phase I Environmental Site Assessment (ESA), Phase II ESA, corrective action planning, remediation, analytical, legal, appraisals, environmental insurance, and other redevelopment project costs).
- **Sites Enrolled in VCP:** As of spring 2012, 172 sites are enrolled in MS Response Programs.
- **Sites Completed under VCP:** As of spring 2012, 640 sites have been completed under MS Response Programs.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- MDEQ conducts limited assessments, primarily Phase I ESAs, for eligible entities on a competitive basis for brownfields projects. EPA Section 128(a) Response Program funding to MDEQ is used for environmental assessments at brownfields throughout the State of Mississippi under the Targeted Brownfields Assessment (TBA) Program. <http://bit.ly/MDEQ-TBA>
- The Brownfield Voluntary Cleanup and Redevelopment Incentives Act expands eligible projects for financial assistance under the Local Governments Capital Improvements Revolving Loan Program to include remediation of brownfields cities and counties may apply for a low interest loan through the Mississippi Development Authority (MDA) to remediate a brownfield site. <http://bit.ly/MDACAP>

### Incentives

The Brownfield Voluntary Cleanup and Redevelopment Incentives Act provides an income tax credit for a property owner equal to 25percent of the costs of remediating a brownfield property, with the annual credit capped at \$40,000, and the total credit not to exceed \$150,000. Any unused portion of the tax credit may be carried over into succeeding tax years. In lieu of the state income tax credit, the property owner may claim a job tax credit for each new employee created as a result of the cleanup and redevelopment of a brownfield site.

<http://bit.ly/MS-Brownfield-Tax-Credit>

### Liability Relief Provisions

Brownfields parties who execute a Brownfield Agreement shall be relieved of liability to all persons, including MDEQ (other than the United States) for remediation of the Brownfield Agreement site other than the remediation required by the Brownfield Agreement, and all costs reasonably related to the remediation other than the remediation costs required by the Brownfield Agreement or the regulations. For sites cleaned up to unrestricted levels, a No Further Action letter is issued. <http://bit.ly/MS-Code-49-35-15>.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

MDEQ uses a three tiered risk-based approach to remediation. Tier 1 evaluation compares site-specific data to a table of chemical-specific Target Remediation Goals (TRG). Tier 2 provides the applicant the option of performing a more in-depth evaluation of site-specific conditions

to develop site-specific Remediation Goals (RG). Tier 3 is a site-specific risk assessment to evaluate the potential human health and ecological risks at the site that will result in the development of site-specific RGs. ICs play a major role in Tier 2 and Tier 3 assessments. <http://bit.ly/MDEQ-Risk-Evaluation-Procedures>.

### Contaminants Covered

Hazardous Substances, asbestos, lead paint, polychlorinated biphenyls (PCBs), and petroleum are covered.

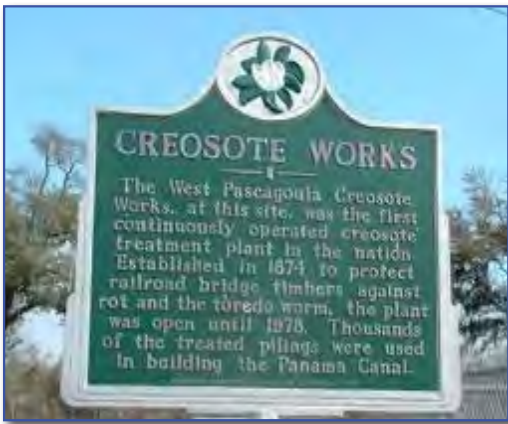
### Institutional Controls (IC)

The Mississippi Uniform Environmental Covenants Act (MUECA), Miss. Code Ann. § 89-23-1, et. seq. (Rev. 2008) is in effect for the purpose of subjecting the site to the activity and use limitations.

- **IC Tracking, Oversight, and Monitoring:** The state tracks and monitors ICs with an online database located at: <http://list.brownfields.ms>

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state. <http://list.brownfields.ms>

## PROGRAM HIGHLIGHTS



Historical Marker at the Gautier Oil site

The former Gautier Oil Brownfield Agreement Site was utilized by the railroad and its lessees for wood treating (creosote) operations from approximately 1870 to 1979, and then waste oil recovery from 1980 to 1983. Following a period of inactivity, Seaboard Coast Line Railroad in 1985, removed above ground structures, storage and process tanks, drums and piles of sludge, sand filter beds, and the excavation/backfill of the surface impoundment south of the railroad trestle near the West Pascagoula River. Since that time, CSX Transportation (CSXT) has been working closely with the MDEQ to evaluate environmental impacts associated with the site and adjacent River and Bayou Pierre. Affected environmental media include soil, ground water, and near shore sediments of the River and Bayou.

CSXT held a Public Information Session well in advance of the work to discuss and solicit comments to the proposed remedial plan. In January 2011, prior to project kickoff, CSXT hosted a community gathering at the site to inform the local community of the planned work and again give the locals an opportunity to voice any concerns. CSXT and its contractors effectively communicated with the community throughout the 11-month remediation project. To date, CSXT has spent over \$15 million to remediate the site.

Approximately 16,000 tons of impacted soil and 7,000 tons of sediment have been disposed and 25,000 wetland plants have been removed, stored and replanted along with the restoration of approximately three acres of fringe wetlands. CSXT is planning to partner with the Land Trust for the Mississippi Coastal Plain to establish a conservation easement on the entire site. It is CSXT's goal to restore the site to its natural habitat which will promote wildlife use. In addition to the conservation easement, CSXT plans to apply for site certification in 2012 through the Wildlife Habitat Council.

## OTHER LAND PROGRAMS

### Voluntary Evaluation Program

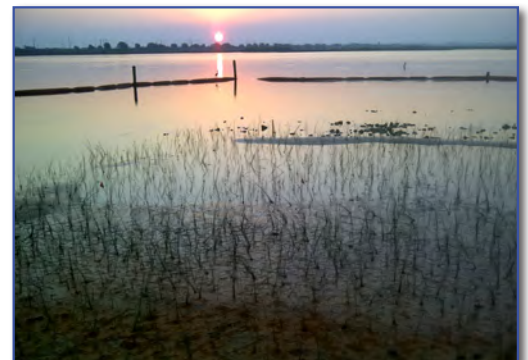
[http://www.deq.state.ms.us/MDEQ.nsf/pdf/GARD\\_ussvep/\\$File/Ussvep.pdf?OpenElement](http://www.deq.state.ms.us/MDEQ.nsf/pdf/GARD_ussvep/$File/Ussvep.pdf?OpenElement)

### Underground Storage Tanks (UST) Program

[http://www.deq.state.ms.us/MDEQ.nsf/page/UST\\_PageHome?OpenDocument](http://www.deq.state.ms.us/MDEQ.nsf/page/UST_PageHome?OpenDocument)

### CERCLA/Superfund Program

[http://www.deq.state.ms.us/MDEQ.nsf/page/GARD\\_home?OpenDocument](http://www.deq.state.ms.us/MDEQ.nsf/page/GARD_home?OpenDocument)



Wetlands Restoration work by CSXT included replanting approximately 25,000 wetlands plants on the former Gautier Oil Site

## Brownfields Program and Inactive Hazardous Sites Voluntary Cleanup Program

North Carolina Department of Environment and Natural Resources (DENR)  
Division of Waste Management  
217 W. Jones Street  
Raleigh, NC 27603  
<http://portal.ncdenr.org/web/wm/>

Contact(s): Bruce Nicholson  
Brownfields  
[bruce.nicholson@ncmail.net](mailto:bruce.nicholson@ncmail.net)  
919-707-8330

Charlotte Jesneck  
Voluntary Cleanup  
[charlotte.jesneck@ncmail.net](mailto:charlotte.jesneck@ncmail.net)  
919-707-8327

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$2,000/\$2,500 with additional fees for completed brownfields agreement
- Liability Relief Provisions
- Tax Incentives

## PROGRAM

There are two programs in North Carolina that involve cleanup of contaminated properties, the Inactive Hazardous Sites Program (IHSP) and the Brownfields Program. The Brownfields Program is strictly reserved for non-causative parties while any party may participate in the IHSP.

**Brownfields Program** – Authorized by the state statute known as the Brownfields Property Reuse Act, the program provides a mechanism to treat prospective developers of brownfields differently than the parties responsible for contaminating them. Prospective developers negotiate a brownfields agreement with the program that defines activities needed to make the site suitable for reuse, rather than cleaning up the site to regulatory standards (which responsible parties are required to do). Prospective developers receive from DENR a brownfields agreement which provides a Covenant Not to Sue (CNTS) in exchange for conducting safemaking actions outlined in the agreement (may include any combination of land use restrictions, mitigation, and/or remediation). <http://portal.ncdenr.org/web/wm/bf> or [www.ncbrownfields.org](http://www.ncbrownfields.org)

**Inactive Hazardous Sites Program** – The Superfund Section of the Division of Waste Management (DWM) is responsible for oversight and approval of the assessment and remediation of all historical, and any recent accidental releases of hazardous substances and pollutants with the exceptions outlined below. The Inactive Hazardous Sites Branch (IHSB) oversees remedial actions, conducts any necessary enforcement of assessment and remediation at sites deemed to be a priority, and conducts the work itself at orphaned sites when state resources are available for such. <http://portal.ncdenr.org/web/wm/sf/ihs/home>

- **Funding Source(s) for the Program:** Federal grants, fees, appropriations, and tax.
- **Cost to enter program or fees for service:** Under the Brownfields Program there is a \$2,000 initial fee at the beginning of the process and then a second fee, due prior to execution of the brownfields agreement, equivalent to the cost to the DENR and the Department of Justice. [http://portal.ncdenr.org/web/wm/bf/fee\\_info](http://portal.ncdenr.org/web/wm/bf/fee_info). Under the IHSB's privatized portion of the Voluntary Cleanup Program (VCP), remediating parties must pay an annual fee of between \$2,000 and \$2,500. For the first year, the fee is \$2,500.
- **Sites Enrolled in VCP:** Brownfields Program – As of August 2012, there are 225 completed brownfields agreements and an additional 120 sites in the program pipeline. The completed sites have continuing obligations for annual land use restriction certifications. IHSB's VCP – As of August 2012, 189 sites have approved voluntary assessments and/or cleanups underway.
- **Sites Completed under VCP:** Brownfields Program – As of August 2012, there are 225 completed brownfields agreements. IHSB's VCP – As of August 2012, 465 sites have completed all work and been assigned No Further Action status under the Inactive Hazardous Sites Program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

Assessment and cleanup are funded by the brownfields applicant in the Brownfields Program and by the remediating party in the VCP. Note that the Inactive Hazardous Sites Program has a separate program for addressing non-permitted landfills that closed prior to 1983. A waste disposal tax funds the assessment and mitigation of these sites. The state contracts this work. Local governments can also perform the assessment and get reimbursed if conducted under a plan approved by the Inactive Hazardous Sites Program. The state also has a program to address dry cleaning solvent releases. For those that qualify, the state funds the assessment and cleanup through a sales tax on dry cleaning.

### Incentives

2000 legislation authorized a sliding scale of property tax abatements for increased value of sites being redeveloped under a brownfields agreement (90percent for year one, down to 10percent in year five), effective July 1, 2001. For voluntary remedial actions conducted with the approval of the Inactive Hazardous Sites Program under an administrative agreement, there is a \$5 million liability cap on remediation expenses not available if the state must conduct enforcement or parties conduct work without program approval.

<http://portal.ncdenr.org/web/wm/bf/incentivesfaq>.

### Liability Relief Provisions

A brownfields agreement provided by the Brownfields Program is designed to break down barriers to obtaining financing at lending institutions through the CNTS contained within.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Under the Brownfields Program, because the program only works with non-causative prospective developers, site cleanup is required only to the extent necessary to make the site safe for intended reuse or the permanence of the agreement is threatened by uncontrolled migration of contaminants. Site-specific, risk-based cleanup standards and land use restrictions are used and the authorizing statute provides for their enforcement by the state, even with general lack of privity.

At sites with significant public benefit at stake, DENR recently initiated a program ("Ready for Reuse Program") which DENR works with an entity that cannot establish non-causative status to produce a draft brownfields agreement for a yet unidentified future non-causative prospective developer. The eligible prospective developer then would be protected upon purchase of the brownfields property. DENR will produce such a Ready for Reuse Agreement in order to reduce risk at the property and to assist in the marketing of the property for redevelopment to a future non-causative prospective developer. However, such a "Ready for Reuse" brownfields agreement confers no liability protections to the ineligible entity with whom DENR worked to produce the agreement. Under the IHSB's VCP, site-specific risk-based standards can be used at VCP sites for soils where the remedy includes land use restrictions and the soils are not a source of ground water contamination. Ground water cleanup under the VCP must meet state ground water standards unless a demonstration is made and approved that cleanup is technically impracticable. However, risk-based cleanup levels are now available for ground water at certain qualifying sites. To qualify the property must have primarily been used for the manufacture of a commercial product or the generation of electricity, the remediating party must demonstrate that the contamination has not and will not migrate off the property above unrestricted use levels and the release must have been reported to the state prior to March 1, 2011.

### Contaminants Covered

Under the Brownfields Program, sites with exclusively petroleum hydrocarbon contamination from Underground Storage Tanks (UST) are ineligible. Otherwise, all soil and ground water contaminants are eligible, including those properties where non-UST contamination is with comingled UST contamination. The IHSB's VCP addresses only non-petroleum hazardous substance and pollutant contamination.

### Institutional Controls (IC)

The North Carolina process assumes that land use restrictions (LUR) will be an integral part of all brownfields agreements where site specific LURs are developed to coordinate with design footprints and run with the land. Annual LUR compliance updates are required by all brownfields agreements. Violation of a LUR is a reopener that subjects the violating party to complete cleanup of the site to state environmental standards. Under the IHSB's VCP, LURs can be used in relation to restricted use soil remedies, ground water contamination that is deemed impracticable to correct, at those sites eligible for risk-based ground water cleanup standards, and where they may otherwise be a necessary part of a remedy. Perpetual reporting on the restrictive covenants is a requirement that runs with the land. The VCP does have reopeners if the Branch finds that false or incomplete information was provided on the site or if there is a violation of the restrictive covenants.

- **IC Tracking:** For the Inactive Hazardous Sites Program, sites with LURs are tracked in a database.
- **IC Oversight:** In the Inactive Hazardous Sites Program, LURs are part of the Remedial Action Plan (RAP).
- **IC Monitoring:** For both the IHSB's VCP and the Brownfields Program, owners must submit an annual certification that LURs are still in place and that the owner is in compliance with their requirements.

The following Web address is a direct link to the Brownfields Program's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state. <http://portal.ncdenr.org/web/wm/bf/projectinventory>

## PROGRAM HIGHLIGHTS

The North Carolina Brownfields Program has signed a brownfields agreement, setting the stage for the redevelopment of the former Ecusta Paper Mill near Brevard. The mill began operation in 1939 and was at one time one of the largest paper mills in the southeast. This is the first of seven planned brownfields agreements that will eventually cover 540 acres of property with an \$800 million mixed use redevelopment. The closure of the historic Ecusta Mill led to 2,300 layoffs and the planned development will regenerate nearly 2,000 jobs. The agreement marked a milestone for the North Carolina Brownfields Program as the 200th brownfields agreement since program inception. This agreement is the culmination of cooperative efforts between numerous environmental programs within the North Carolina Department of Environment and Natural Resources and the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) pre-remedial and removal programs of EPA Region 4. The abandonment of the mill in 2003 resulted in shutdowns of various environmental systems and threatened uncontrolled releases into the Davidson River. Davidson River Village signed an administrative order on consent to conduct assessment and cleanup activities and has been active in the demolition and cleanup of the mill for three years. Cleanup of several portions of the property are complete or nearing completion, ongoing monitoring will continue through the redevelopment of the property. The brownfields agreement will provide institutional control provisions that will protect public health and the environment on the first tract slated for redevelopment. It is the first in a series of seven planned agreements for various tracts on the property.

The property will be redeveloped into Davidson River Village, a large mixed use redevelopment to include residential, retail, hospitality, and open space uses with strong acknowledgement of the mill history for the local community

## OTHER LAND PROGRAMS

### Underground Storage Tanks (UST) Program

<http://portal.ncdenr.org/web/wm/ust>

### Dry-cleaning Solvent Cleanup Act (DSCA) Program

<http://portal.ncdenr.org/web/wm/dsca>

### Superfund Program

<http://portal.ncdenr.org/web/wm/sf>

## Brownfields/Voluntary Cleanup Program (VCP)

South Carolina Department of Health and Environmental Control (DHEC)

Bureau of Land and Waste Management

2600 Bull Street

Columbia, SC 29201

<http://www.scdhec.gov/environment.htm>

Contact(s): Robert Hodges

[hodgesrf@dhec.sc.gov](mailto:hodgesrf@dhec.sc.gov)

803-896-4069

### Program Overview

- Brownfields Program
- Cost to Enter the Program: Oversight Fees
- Liability Relief Provisions
- Tax Incentives

## PROGRAM

South Carolina's Voluntary Cleanup Program (VCP), established in 1988, is a component of the hazardous substance cleanup program. In 1995, South Carolina's VCP was expanded and enhanced to incorporate a brownfields component. All sites are eligible to participate with the exception of National Priorities List (NPL) sites, and parties under enforcement action or permits.

<http://www.scdhec.gov/environment/wm/html/brownfields.htm>

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** There is no application fee to enter into the VCP; however, private party responsible parties (RP) and non-responsible parties (NRP) must pay oversight costs. The South Carolina Department of Health and Environmental Control (DHEC) provides oversight without charge to governmental entities and nonprofit agencies as long as sufficient funding is available through EPA's 128(a) Response Program grant. A Phase I Environmental Assessment is required along with an application for NRPs.
- **Sites Enrolled in VCP:** As of November 2012, 419 sites are currently enrolled in the program.
- **Sites Completed under VCP:** As of November 2012, 139 sites completed cleanups under the program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- Through an EPA grant, DHEC administers a Brownfields Cleanup Revolving Loan Fund (RLF) of \$5,213,000, which offers low interest loans to non-responsible parties for removal of contamination at brownfields redevelopment projects in the VCP.
- DHEC can perform a limited number of site-specific assessments of selected and EPA-approved sites that are publicly owned or have strong local government support for redevelopment.

### Incentives

For brownfield sites, financial incentives are available for NRPs who have entered into the VCP.

<http://www.sctax.org/NR/rdonlyres/5A9F1B8D-ED46-43A3-85C4-4C3C4768E385/0/TC20.pdf>

### Liability Relief Provisions

The VCP provides a Covenant Not to Sue (CNTS) for existing contamination, contribution protection, and third party liability protection for NRPs.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

No formal Risk-Based Corrective Action (RBCA) process is in place for hazardous substances; the state generally uses the "EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites" as remedial goals. Applicants can use Preliminary Remediation Goals (PRG) and Soil Screening Levels (SSL), background concentrations, and site-specific concentrations based on a site-specific risk assessment.

### Contaminants Covered

Under South Carolina's Brownfields/VCP law, hazardous substances, contaminants and pollutants, and petroleum and petroleum products are addressed. Asbestos and lead-based paint can be addressed if there is an environmental exposure. Polychlorinated biphenyls (PCBs) are included as hazardous substances. Petroleum is addressed through the VCP or the Underground Storage Tank (UST) program, depending on the source of the contamination.

### Institutional Controls (IC)

South Carolina has a long-term stewardship (LTS) program for its state voluntary, brownfields, state remediation, and Resource Conservation and Recovery Act (RCRA) programs. Sites where ICs have been implemented under the Brownfields Program are required to certify compliance with the Restrictive Covenant every year. DHEC performs inspections to ensure compliance with the Restrictive Covenant, as



needed. The Restrictive Covenant clearly delineates the restrictions placed on the property and is noticed on the deed. Brownfields/VCP sites that are worked on during each year and that have determined land use controls are so noted on the Public Record.

- **IC Tracking:** South Carolina maintains a database that tracks ICs at cleanup sites.
- **IC Oversight:** Parties owning sites that are not cleaned up for unrestricted use as determined by comparison to the “EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites” must enter into a Restrictive Covenant with DHEC.
- **IC Monitoring:** DHEC monitors compliance with Restrictive Covenants by annual certifications and by performing inspections.

The following Web address is a direct link to the state’s public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.scdhec.gov/environment/lwm/pubs/Public%20Record%20Feb.%201,%202013.pdf>

## PROGRAM HIGHLIGHTS

The 1910 Building was originally built and served as the Victoria Yarn Mill #2 until the depression of 1930. In 1936 the building was purchased by the Rock Hill Body Company which became one of the earliest makers of truck bodies and school bus bodies in the Southeast, until closing in 1987. The goal of this project was to restore the old building to create 21 family rental apartments along with the construction of 18 single-family rental houses on the approximately 8-acre property. This project is a unique blend of historic and new that provides affordable low-income housing to a distressed part of Rock Hill. The 1910 Building is on the federal historic registry and federal funds were used to bring the property and the neighborhood back to life. This brownfields redevelopment is part of a larger plan to revitalize the Hagins-Fewell old mill neighborhood of the City of Rock Hill. The city took this opportunity to invest in major infrastructure improvements by installing sidewalks, street lighting, curbs and neighborhood entrance signs around the development. This brownfields redevelopment provided temporary jobs during the recent recession and permanent jobs where none existed since 1987.

The Developer entered into a Voluntary Cleanup Contract with the state’s Section 128(a) Response Program. Environmental assessments revealed the presence of volatile organic compounds (VOCs), semi-VOCs and heavy metals within the surface and subsurface soils. While many remedial technologies were considered, a grid pattern sampling assessment and excavation and removal of impacted areas was determined as the best approach. Nearly 300 tons of soil was excavated and disposed of at a Subtitle D Landfill. This project was completed in January of 2011. A Certificate of Completion for the Brownfields Non-Responsible Party Voluntary Cleanup Contract is dated February 4, 2011. The cost of the environmental work was \$90,500.00. Other funding sources leveraged included: IRS Section 42 Federal 9percent Low-Income Housing Tax Credits converted to cash through the Federal Exchange Program; Department of Housing and Urban Development (HUD) funds through the Federal HOME Program; Federal and State Historic Tax Credits; and State Textile Mill Tax Credits. The total development cost was \$8,633,223.



Before picture of the former 1910 Building



After picture of the former 1910 Building

## OTHER LAND PROGRAMS

### Underground Storage Tanks (UST) Program

<http://www.scdhec.gov/environment/lwm/usthome/ust.htm>

### Dry Cleaning Program

<http://www.scdhec.gov/environment/lwm/html/drycleaner.htm>

### Superfund Program

<http://www.scdhec.gov/environment/lwm/html/superfund.htm>

## Voluntary Cleanup, Oversight, and Assistance Program (VOAP)

Tennessee Department of Environment and Conservation (TDEC)  
Division of Remediation  
4th Floor, L&C Annex  
401 Church Street  
Nashville, TN 37243-1538  
<http://www.tn.gov/environment/dor/voap>

Contact(s): Andy Shivas  
[Andy.Shivas@tn.gov](mailto:Andy.Shivas@tn.gov)  
615-532-0912

### Program Overview

- Cost to Enter the Program: \$750 plus additional charges
- Liability Relief Provisions
- Tax Incentives
- Tennessee Brownfields Redevelopment Toolbox

## PROGRAM

The Voluntary Cleanup Oversight and Assistance Program (VOAP) offers entities the opportunity to work proactively with state government to address necessary cleanup of a property to return it to productive use. In return for their efforts, participants can receive a No Further Action (NFA) letter and a release of liability for areas where investigation and cleanup is conducted. The program is open to everyone with an interest in addressing contamination at a site. <http://www.tn.gov/environment/dor/voap>

- **Funding Source(s) for the Program:** VOAP General Fund, State Remedial Action Fund, and federal grants.
- **Cost to enter program or fees for service:** Participants are charged a \$750 entry fee. Additional fees are charged per report or work product: Site Characterization—\$2,000; Remedial Action—\$2,500; Risk Assessment—\$2,000; Voluntary Agreement or Consent Order—\$3,000; Site Specific Ground Water Classification—\$2,000; Remedy Requirement Institutional Controls—\$500. Additionally, participants are charged a \$3,000 annual assessment if they remain in the program longer than one year.
- **Sites Enrolled in VOAP:** As of December 2010, 135 sites are enrolled in the VOAP.
- **Sites Completed under VCP:** As of November 2010, 110 sites have received NFA letters.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

Dry Cleaning Environmental Response Program Trust Fund (DCERPTF) can be used to clean up eligible active and abandoned dry cleaning sites. In order to utilize the fund, fees and deductibles are required by program participants.

### Incentives

Tax increment financing (TIF) can be used by local governments that have jurisdiction over any part of a brownfields project. In 2010, legislation was passed allowing for a brownfield property tax credit at qualified brownfield properties. <http://state.tn.us/sos/acts/106/pub/pc1134.pdf>.

The following is an excerpt from the law: 'Effective June 30, 2010, a franchise and excise tax credit equal to 50percent or 75percent, depending on the amount of capital investment (\$25 million or \$200 million, respectively) of the purchase price of Brownfield property purchased in Tennessee for the purpose of a qualified development project. The total value of credits authorized is capped at \$10 million per year and allows the credit to be used for development projects using non-prime agricultural properties in any year in which credits remain available. "Brownfield property" is defined as real property that is the subject of an investigation or remediation as a Brownfield project under a voluntary agreement or consent order pursuant to Tenn. Code Ann. Section 68-212-224. [Tenn. Code Ann. Section 67-4-2009]'

### Liability Relief Provisions

Participants can receive a NFA letter and release of liability under any statute administered by the Tennessee Department of Environment and Conservation (TDEC) for investigation, remediation, monitoring, and/or maintenance of contamination identified and addressed in a voluntary agreement or consent order. With certain conditions and limitations, liability protection may extend to successors in interest or in title to the participant, contractors conducting response actions at the site, developers, future owners, tenants, and lenders, fiduciaries or insurers. Third party contribution protection may be provided if certain notice requirements are met.

### Tennessee Brownfields Redevelopment Toolbox

The purpose of this Toolbox is to explain the brownfields process in straightforward terms, and provide rural and smaller city governments/entities/communities with a systematic, start-to-finish, guide to brownfields redevelopment. <http://tn.gov/environment/dor/toolbox/>

## PROGRAM ELEMENTS

### Methods/Standards/Controls

EPA Region 9 Preliminary Remediation Goals (PRG) are used for initial screening. The criteria for selecting containment and cleanup actions, including monitoring and maintenance options to be followed under the VOAP, are identical to those under the hazardous substance cleanup program. No formal Risk-Based Corrective Action (RBCA) or comparable informal process is in place, but risk-based cleanups can be done via site-specific assessment with standards based on risk. Applicants can also request or develop standards based on future use.

### Contaminants Covered

Petroleum, asbestos and polychlorinated biphenyls (PCBs) are covered. Lead paint is covered if other hazardous substances are present. Statute covers hazardous substances, solid waste or any other pollutant.

### Institutional Controls (IC)

Tennessee has a long-term stewardship program for voluntary sites. The 2001 amendments to the VOAP allow for enforceable land-use restrictions.

- **IC Tracking:** Tennessee does have a tracking system for ICs.
- **IC Oversight and Monitoring:** The state reviews sites on a site-specific basis at least every five years. The results of the reviews are available to the public.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state. <http://www.tn.gov/environment/dor/pdf/promsite.pdf>

## PROGRAM HIGHLIGHTS

The Citizens Gas and Light property in Jackson was a manufactured gas plant that operated from 1871 to 1931. It is located on the northern fringe of downtown Jackson, between a Farmers Market and a disadvantaged neighborhood. The City of Jackson was awarded a \$200,000 Brownfields 104(k) Cleanup grant to remove source contamination areas and put a soil cover system in place. A multi-disciplinary team from the Jackson Energy Authority, the Tennessee Department of Environment and Conservation (TDEC), the City of Jackson, EPA and the private sector worked together to make this Cleanup grant a success. Over \$250,000 additional funds were leveraged and 610 tons of coal-tar impacted soils were removed. The property is now an urban pocket park that complements the vision of downtown Jackson's revitalization.

## OTHER LAND PROGRAMS

### Underground Storage Tanks (UST) Program

<http://tn.gov/environment/ust/>



An urban pocket park located on the former Citizens Gas and Light property

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# EPA REGION 5

## Brownfields Assistance Program and Site Remediation Program (SRP)

Illinois Environmental Protection Agency (IEPA)  
 Bureau of Land  
 1021 North Grand Avenue East  
 Springfield, IL 62794-9276  
<http://www.epa.state.il.us/land/cleanup-programs/>

Contact(s): Heather Nifong  
[Heather.Nifong@illinois.gov](mailto:Heather.Nifong@illinois.gov)  
 217-785-4729

### Program Overview

- Brownfields Program
- Cost to Enter the Program: User fees
- MOA with EPA Region 5 (April 1995)
- Liability Relief Provisions

## PROGRAM

Brownfields Assistance Program – The Office of Brownfields Assistance manages the Brownfields grant and loan programs and offers technical support to communities through the services of its Brownfields representatives. <http://www.epa.state.il.us/land/brownfields/index.html>

**Site Remediation Program (SRP)** – The SRP is a cleanup program that provides Remediation Applicants (i.e., any persons seeking to perform investigative or remedial activities) the opportunity to receive IEPA review, technical assistance and No Further Remediation (NFR) determinations from the Illinois EPA. <http://www.epa.state.il.us/land/site-remediation/index.html>

- **Funding Source(s) for the Program:** User fees, cost recovery and federal grants.
- **Cost to enter program or fees for service:** User fees based on personnel costs, overhead, travel, lab costs, etc. Fees on hazardous waste treatment/disposal fund state participation.
- **Sites Enrolled in VCP:** As of July 2012, 768 sites are currently in the program.
- **Sites Completed under VCP:** As of July 2012, 3,178 sites have completed cleanups under the program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- Municipal Brownfields Redevelopment Grant Program offers municipalities grants of up to \$240,000 for investigation and cleanup of brownfields. Sites must be enrolled in the Site Remediation Program and investigation/cleanup activities must be approved. The grant has a 70/30 match requirement.
- Brownfields Cleanup Revolving Loan Fund offers interest free loans up to \$1 million per site to municipalities for brownfields cleanups. Sites must be enrolled in the SRP and investigation/cleanup activities must be approved. Municipality must own the site and demonstrate the site has no Comprehensive Environmental Response Compensation and Liability Act (CERCLA) liability.
- Brownfields Environmental Assessments – The Office of Site Evaluation provides municipalities with site-specific assessments funded by Illinois's Section 128(a) Response Program grant.

### Liability Relief Provisions

The Site Remediation Program offers a No Further Remediation letter after cleanup meets the risk-based Tiered Approach to Correction Action Objectives (TACO).

## PROGRAM ELEMENTS

### Methods/Standards/Controls

- Under TACO, the applicant has a choice of cleanup standards. Remediation objectives generated by TACO are risk-based, site-specific, and derived from Risk-Based Corrective Action (RBCA) and EPA Soil Screening Levels (SSLs).
- The state uses background levels, water quality criteria, Maximum Contamination Level/Maximum Contamination Level Goals (MCLs/MCLGs), ground water standards, soil standards, and land use based standards to establish cleanup objectives. In Tier 1 of TACO, site evaluators compare site sample analytical results to baseline remediation objectives, contained in “look-up” tables. These objectives are based on simple, conservative models. In Tier 2, site evaluators take into account the physical and chemical properties of the contaminants, site-specific soil and ground water parameters, and the application of institutional controls and engineered barriers. Tier 3 is used to address those situations that site evaluators choose not to handle or cannot handle under the first two tiers. These situations can range from simple sites where physical barriers limit remediation, to complex sites where alternative modeling or full-scale risk assessments are applied. Cleanup standards are based on relative risks to human health with a 10–6 carcinogenic risk goal.

### Contaminants Covered

Petroleum and hazardous substances are included. Institutional controls are allowed under TACO and may include engineered barriers, ground water restrictions, highway authority agreements, and land-use restrictions.

### Institutional Controls (IC)

Illinois assures the maintenance of land use controls through title searches, physical site inspections, and enforcement of any identified violations under the terms and conditions of the NFR letter.

### Site Remediation Program Database

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state. <http://epadata.epa.state.il.us/land/srp/>

### PROGRAM HIGHLIGHTS

Illinois is using Section 128(a) Response Program funding to enhance the Pecatonica Prairie hiking and biking path. The Office of Site Evaluation (OSE) conducted five separate site-specific brownfields investigations in the City of Freeport. OSE did the field work prior to the construction of the boat ramp and bridge over the Pecatonica River. Across the bridge is the CMC Heartland Properties site where OSE used the XRF, EM-61, and Geoprobe equipment to conduct its site investigation. The investigation resulted in the removal of numerous underground tanks and the initiation of a \$750,000 EPA time-critical removal action at the CMC site. A paved hiking/ biking trail now runs through the old CMC site and continues to Stephenson Avenue where it intersects another area where OSE performed site-specific investigations of two former gas stations in the late 1990s. At one of the sites, the tanks have been removed, clean fill brought in, and the building demolished. The other gas station has yet to be remediated. In March 2012, OSE collected soil and ground water data for the City of Freeport on another parcel of property that will eventually become part of the Pecatonica Prairie Hiking/Biking Path. Last summer, OSE conducted an investigation for the City of Rockford at the former Tapco Facility located in downtown Rockford along the Rock River. The Tapco Facility marks the east end of the Pecatonica Prairie Path. When complete, the Pecatonica Prairie Path will connect the cities of Freeport and Rockford.

### OTHER LAND PROGRAMS

#### Leaking Underground Storage Tanks (LUST) Program

<http://www.epa.state.il.us/land/lust/index.html>

#### Superfund Program

<http://www.epa.state.il.us/land/cleanup-programs/cleanups-superfund.html>



The Pecatonica Prairie hiking and biking path

## Brownfields Program at Indiana Finance Authority (IFA) and Voluntary Remediation Program (VRP) at

Indiana Department of Environmental Management (IDEM)  
Office of Land Quality  
Indiana Brownfields Program  
100 N. Senate Avenue, Room 1275  
Indianapolis, IN 46204

Contact(s): Michele Oertel  
[moertel@ifa.in.gov](mailto:moertel@ifa.in.gov)  
317-234-0235

Voluntary Remediation Program  
P.O. Box 6015  
Indianapolis, IN 46206-6015

Contact(s): Corey Webb  
[CWEBB@idem.IN.gov](mailto:CWEBB@idem.IN.gov)  
317-234-0966

### Program Overview

- Brownfields Program & Voluntary Remediation Program (VRP)
- Cost to Enter the Program: Brownfields - \$0 / VRP - \$1,000
- VRP MOA with EPA Region 5 (December 1995)
- Liability Relief Provisions

### PROGRAM

**Indiana Brownfields Program** – This is a resource for public and private brownfields stakeholders, and a mechanism for the state to partner with communities and eligible private entities to address environmental concerns to facilitate brownfields redevelopment. The main goal is to help communities identify and mitigate environmental barriers that impede local economic growth by offering government assistance primarily for site assessment and/or cleanup activities as an incentive for redevelopment or reuse of brownfield properties to revitalize communities. Since 2005, the program has been managed by the Indiana Finance Authority (IFA), combining financial, legal and technical resources, including IFA and IDEM staff. <http://www.in.gov/ifa/brownfields/>

**Voluntary Remediation Program (VRP)** – The main goal of this program is to provide government approval for privately funded remediation projects, some of which may be considered brownfields. <http://www.in.gov/idem/4127.htm>

- **Funding Source(s) for the Program(s):** State General Fund, State Cleanup Fund, and federal grants/cooperative agreements.
- **Cost to enter program or fees for service:** While 2007 state legislation allows for fees, the Indiana Brownfields Program is free, and costs for services are currently not recovered from program participants. The VRP is funded through application fees of \$1,000 (municipalities are exempt) per site and through applicant agreements to pay additional state costs. State costs for voluntary cleanups generally range from \$5,000 - \$20,000. The VRP recovers costs for project administration, technical evaluation, confirmatory sampling and travel.
- **Sites Enrolled in VCP:** As of August 2012, there are 1,143 Indiana Brownfields Program sites and over 750 VRP applicants.
- **Sites Completed under VCP:** As of August 2012, for the Indiana Brownfields Program, an approximate total of 516 closure/liability interpretation letters (Comfort Letters, Site Status Letters, NFA Letters) and comment letters were issued; 433 grants awarded; 32 loans closed (includes state low-interest loans); and seven federal Revolving Loan Fund (RLF) loans made. Note that at the end of calendar year 2009, all state funding for the Indiana Brownfields Program was suspended indefinitely. At this time, state-funded Stipulated Assessment and Remediation grants, Petroleum Remediation grants, and low-interest loans are no longer available. As of August 2012, 260 sites have successfully completed the VRP, and 326 sites remain active.

### FINANCIAL ELEMENTS

#### Assessment and Cleanup Funding

A variety of financial assistance is available for brownfields reuse projects. Funding is not retroactive.

<http://www.in.gov/ifa/brownfields/2366.htm#taxincentive>

#### Incentives

A variety of tax incentives are available to assist with brownfields reuse projects. This is the only type of “retroactive” funding.

<http://www.in.gov/ifa/brownfields/2366.htm#taxincentives>

#### Liability Relief Provisions

- The Indiana Brownfields Program offers Comfort Letters and Site Status Letters to address environmental liability issues, the highest forms of “comfort” and/or “closure” offered at this time. Sites remediated with federal or state brownfield funds may enter the IDEM VRP for a Certificate of Completion (COC) or Covenant Not to Sue (CNTS).
- The IDEM VRP offers the highest form of liability protection through a COC issued by IDEM, followed by a CNTS from the Governor's office; contaminated sites that are not subject to enforcement action or considered an imminent threat to human health are eligible.



## PROGRAM ELEMENTS

### Methods/Standards/Controls

- A risk-based process (Risk-Based Corrective Action-like) is in place. IDEM's Remediation Closure Guide (RCG) allows for consistent, risk-based standards among all IDEM cleanup programs (and the Indiana Brownfields Program). RCG is being utilized which replaces the former Risk Integrated System of Closure (RISC) that had been utilized since 2002.
- Indiana developed default risk-based closure criteria for soil and ground water and allows for site-specific risk assessments to determine alternative closure levels.
- In addition to risk-based numeric standards, both the Indiana Brownfields Program and VRP consider risk management practices in evaluating sites.

### Contaminants Covered

- Both programs cover hazardous substances and petroleum. Default closure standards have been developed for approximately 150 common constituents, excluding asbestos and polychlorinated biphenyls (PCBs).
- For the Indiana Brownfields Program, asbestos, lead paint and PCBs are eligible under certain circumstances, as well as hazardous substances and petroleum.
- In the VRP, petroleum and PCBs are eligible; asbestos and lead paint are not.

### Institutional Controls (IC)

Both programs generally view ICs as acceptable. ICs are considered under IDEM's RCG when determining remediation-type activities. ICs may be approved on a site-by-site basis. Indiana Brownfields Program Comfort/Site Status Letters may indicate land-use restrictions as necessary. Land-use restrictions are enforced by IDEM through Environmental Restrictive Covenants. The most common type of IC approved by IDEM is an Environmental Restrictive Covenant; legislation passed in 2009 requires IDEM to consider Environmental Restrictive Ordinances as an effective IC. IDEM also developed and maintains an Institutional Controls Registry to track Environmental Restrictive Covenants.

- **IC Tracking:** Tracked by individual programs (including Indiana Brownfields Program and VRP) through IDEM's Registry. A summary report from the registry is posted monthly at: <http://www.in.gov/idem/5959.htm>. The registry also has interactive features including a link to view the actual IC document using IDEM's Virtual File Cabinet.
- **IC Oversight and Monitoring:** IDEM staff are primarily responsible for this activity.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state <http://www.in.gov/idem/4472.htm>

## PROGRAM HIGHLIGHTS

With its Section 128(a) Response Program funding, the Indiana Brownfields Program conducted technical oversight for a vacant elementary school located at 101 E. Church Street in Leesburg. The 9.95-acre property had contamination from an off-site source. Following additional investigative activities, a Brownfields Comfort Letter was issued on April 15, 2011 to address the prospective purchaser's liability issues, facilitate the real estate sale, and ultimately foster the redevelopment of the site into the world headquarters for Maple Leaf Farms (a duck processing company). Additional details can be found in the article featured in the Brownfields Bulletin Winter 2012 edition, as well as other site highlights included at:

[http://www.in.gov/ifa/brownfields/files/Brownfields\\_Bulletin\\_Winter\\_2012.pdf](http://www.in.gov/ifa/brownfields/files/Brownfields_Bulletin_Winter_2012.pdf) and at [http://www.in.gov/ifa/brownfields/files/Brownfields\\_Bulletin\\_Summer\\_2012\\_Final\\_07-09-12.pdf](http://www.in.gov/ifa/brownfields/files/Brownfields_Bulletin_Summer_2012_Final_07-09-12.pdf)

In response to statutory revisions in recent years which require IDEM to consider remedial proposals which may include "conditions subsequent" to closure, a recent primary focus of VRP managerial staff is how best to approach these types of proposals within the framework and context of VRP statute. "Conditions subsequent", as defined by recent statutory revisions, may include anything from simple provisions to be maintained via an Environmental Restrictive Covenant (ERC) to complex ongoing controls or remediation systems that must be operated subsequent to site closure as a condition of site closure. While this sort of scenario may not always be ideal or appropriate for issuance of a CTNS through VRP, program staff are currently evaluating options to facilitate a consistent and reasonable approach in accordance with statute.

## OTHER LAND PROGRAMS

### Leaking Underground Storage Tanks (LUST) Program

<http://www.in.gov/idem/4997.htm>

### State Cleanup Program

<http://www.in.gov/idem/4179.htm>



The new Maple Leaf Farms Headquarters

## Brownfield Redevelopment Assessment Program and Cleanup and Redevelopment Program

Michigan Department of Environmental Quality (DEQ) P.O. Box 30426  
Lansing, MI 48909

[http://www.michigan.gov/deq/0,1607,7-135-3311\\_4109---,00.html](http://www.michigan.gov/deq/0,1607,7-135-3311_4109---,00.html)

Contact(s): Susan Erickson  
Brownfield Redevelopment Program  
[ericksons@michigan.gov](mailto:ericksons@michigan.gov)  
517-241-8707

Joseph Walczak  
Brownfield Redevelopment Assessments  
[walczackj@michigan.gov](mailto:walczackj@michigan.gov)  
517-335-2151

Karen Kligman  
Environmental Remediation and Liability  
[kligmank@michigan.gov](mailto:kligmank@michigan.gov)  
517-335-6526

Jeanne Schlaufman  
Baseline Environmental Assessments  
[schlaufmanj1@michigan.gov](mailto:schlaufmanj1@michigan.gov)  
586-753-3823

### Program Overview

- Brownfield Program
- Cost to Enter the Program: None
- MOA with EPA Region 5 (July 1996)
- Liability Relief Provisions
- Tax Incentives
- Brownfield Redevelopment Authorities

## PROGRAM

Michigan created options to overcome the obstacles of brownfields redevelopment, including cost-effective cleanup options, causation-based liability, liability protection for new owners, state funding for cleanups, and grant and loan programs. Innovative use of available federal, state and local resources can be incorporated into redevelopment incentives to support expansion and to encourage new businesses to locate in Michigan.  
<http://www.michigan.gov/deqbrownfields>

- **Funding Source(s) for the Program:** Various environmental state restricted funds, bond funds, and federal grants.
- **Cost to enter program or fees for service:** No Fees. Private owners can conduct cleanups under Part 201, Environmental Remediation, or Part 213, Leaking Underground Storage Tanks, of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended.
- **Sites Enrolled in VCP:** Sites are not enrolled. The DEQ conducts state-funded and managed response activities at sites where the liable party is not available or not viable.
- **Sites Where Cleanup Activities Have Occurred:** As of June 2012, DEQ had provided oversight or assistance on more than 10,000 cleanup projects.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance is available to assist with brownfields reuse projects.

[http://www.michigan.gov/deq/0,1607,7-135-3311\\_4110\\_29262---,00.html](http://www.michigan.gov/deq/0,1607,7-135-3311_4110_29262---,00.html)

### Incentives

A variety of financial incentives is available to assist with brownfields reuse projects from the Michigan Economic Development Corporation.

<http://www.michiganadvantage.org/Grow-Your-Business/>

### **Liability Relief Provisions**

Completing a Baseline Environmental Assessment (BEA) and submitting it to DEQ prior to or within 45 days of purchase provides an exemption from liability for existing contamination. The BEA establishes the means to distinguish a new release from pre-existing contamination. A BEA does not provide liability protection at sites regulated by the federal Resource Conservation and Recovery Act (RCRA), and Comprehensive Environmental Response Compensation and Liability Act (CERCLA).

### **Brownfield Redevelopment Authorities (or similar)**

Tax increment financing and community redevelopment grants are available to brownfields redevelopment authorities in order to promote redevelopment of contaminated, blighted and functionally obsolete sites as well as properties controlled by a land bank. A list of established brownfields authorities, local contact information, and links to the updated brownfields legislation are found at:

[http://www.michigan.gov/deq/0,1607,7-135-3311\\_4110\\_23246---,00.html](http://www.michigan.gov/deq/0,1607,7-135-3311_4110_23246---,00.html)

## **PROGRAM ELEMENTS**

### **Methods/Standards/Controls**

Risk-based standards are in place for soil and ground water based on land-use categories—residential and non-residential. DEQ may also approve site-specific criteria.

### **Contaminants Covered**

Petroleum and other Hazardous Substances are included. A property is a “facility” if the contaminant concentration exceeds one or more residential criteria, as defined in Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended.

### **Institutional Controls (IC)**

The use of land and resource-use restrictions are an integral part of Michigan’s cleanup and redevelopment program. The state has a tracking system for land and resource-use restrictions that are submitted to the state. A Web-based mapping application is being finalized to be made available to the public.

## **PROGRAM HIGHLIGHTS**

The Remediation Division recently convened a Collaborative Stakeholders Initiative (CSI), made up of dozens of key stakeholders in order to transform the cleanup and redevelopment program. The culmination of the stakeholders meetings, held in February and March of 2012, resulted in a final recommendation report to the DEQ Director. The 90 recommendations focused on seven parts of the cleanup and redevelopment program, brownfields redevelopment, cleanup criteria, due care obligations, free product/source removal/ground water/surface water interface, Part 201 rules, and vapor intrusion. The CSI process continues to produce improvements to the cleanup and redevelopment programs, resulting in a focus on risk management, creation of technical and program support teams (TAPS Teams), and rule modifications. More information about the CSI process and updates can be found at: [http://www.michigan.gov/deq/0,4561,7-135-3311\\_4109\\_9846-269955--,00.html](http://www.michigan.gov/deq/0,4561,7-135-3311_4109_9846-269955--,00.html)

## **OTHER LAND PROGRAMS**

### **Leaking Underground Storage Tank (LUST) Program**

[http://www.michigan.gov/deq/0,1607,7-135-3311\\_4109\\_4215---,00.html](http://www.michigan.gov/deq/0,1607,7-135-3311_4109_4215---,00.html)

### **Superfund Program**

[http://www.michigan.gov/deq/0,1607,7-135-3311\\_4109\\_4217---,00.html](http://www.michigan.gov/deq/0,1607,7-135-3311_4109_4217---,00.html)

## Voluntary Investigation and Cleanup (VIC) Program and Petroleum Brownfields (PB) Program

Minnesota Pollution Control Agency (MPCA), Remediation Division  
520 Lafayette Road  
St. Paul, MN 55155

<http://www.pca.state.mn.us/lupg7f9>

Contact(s): Jessie Ebertz  
PB Program  
[jessie.ebertz@state.mn.us](mailto:jessie.ebertz@state.mn.us)  
651-757-2328

Hans Neve  
VIC Program  
[hans.neve@state.mn.us](mailto:hans.neve@state.mn.us)  
651-757-2608

### Program Overview

- Brownfield Program
- Cost to Enter the Program: Oversight fees (\$125 per hour)
- MOA with EPA Region 5 (May 1995)
- Liability Relief Provisions
- Minnesota Brownfields Redevelopment Toolbox
- Minnesota Brownfield Resource Guide

## PROGRAM

The Minnesota Pollution Control Agency (MPCA) offers technical and financial assistance to parties involved with brownfields. The MPCA can also issue liability assurance letters through its Voluntary Investigation and Cleanup (VIC) and Petroleum Brownfields (PB) programs.

<http://www.pca.state.mn.us/mvri820> (VIC Program)

<http://www.pca.state.mn.us/foyp80a> (PB Program)

- **Funding Source(s) for the Program:** State Cleanup Fund and federal grants.
- **Cost to enter program or fees for service:** \$125 Hourly fee charged for MPCA staff time on brownfields projects.
- **Sites Enrolled in Brownfields Programs:** As of September 2012, 340 sites are active in the VIC Program and 239 sites are active in the PB Program.
- **Sites Completed under Brownfields Programs:** As of September 2012, over 3,000 sites are completed in MPCA VIC and approximately 2,700 sites are completed in PBP.

## Liability Relief Provisions

MPCA offers liability assurances, including No Association Determinations, No Action Determinations, Off-site Source Determinations, and Certificates of Completion for sites in the VIC Program. In addition, MPCA offers Tank Removal Verification, Off-site Source Determinations, Site closure, and Closure Confirmation letters in the PB Program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance is available to assist with brownfields reuse projects. Minnesota's Brownfield Resource Guide, prepared in partnership by Minnesota Department of Employment and Economic Development, Minnesota Pollution Control Agency, and Minnesota Brownfields, provides a summary of sources of funding in Minnesota, most of which are provided by sources other than the MPCA. <http://www.pca.state.mn.us/lupg7f9>

### Brownfields Redevelopment Toolbox

Prepared by the MPCA, Minnesota Department of Agriculture (MDA), and the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) State Response and Brownfields Program Operations Task Force, the purpose of this Toolbox is to explain the brownfields process in straightforward terms, and provide rural and smaller city governments/entities/communities with a systematic, start-to-finish guide to brownfields redevelopment. <http://www.pca.state.mn.us/lupg7f9>

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Minnesota uses a risk-based approach that considers planned property use. Minnesota employs state surface water quality standards, ground water standards, soil vapor standards, indoor air standards, and some EPA standards for various media, in conjunction with risk assessments to determine cleanup levels. Minnesota has a tiered approach for providing risk-based guidance on acceptable soil concentrations (Soil Reference Values) for specific exposure categories. Site-specific risk assessments can also be done in order to select and apply cleanup values for sites. <http://www.pca.state.mn.us/enzq83d>

### Contaminants Covered

The MPCA Brownfields Programs (VIC and PB) provide oversight of investigation and cleanup of releases to the environment of hazardous substances and petroleum contamination. See below for agricultural contaminants.

### Institutional Controls (IC)

ICs are used for purposes such as managing residual contamination, maintaining response actions, and notifying future property owners of the presence of residual contamination. Minnesota had adopted the Uniform Environmental Covenants Act, Minn. Stat. Ch. 114E, in 2007.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.pca.state.mn.us/index.php/data/environmental-data-access.html>

## PROGRAM HIGHLIGHTS

Success stories illustrating sites at which private and public development projects were cleaned up and redeveloped in partnership with the VIC and PB are posted on the MPCA website. New success stories are added monthly. <http://www.pca.state.mn.us/clyp7f8>

## OTHER VOLUNTARY CLEANUP PROGRAMS

### Agriculture Voluntary Investigation and Cleanup Program (AgVIC)

<http://www.mda.state.mn.us/chemicals/spills/incidentresponse/agvic.aspx>

## Voluntary Action Program (VAP)/Site Assistance and Brownfield Revitalization Program (SABR)

Ohio Environmental Protection Agency (OEPA)  
Division of Environmental Response and Revitalization  
P. O. Box 1049  
Columbus, OH 43216-1049

Contact(s): Amy Yersavich  
SABR Program Manager  
[amy.yersavich@epa.state.oh.us](mailto:amy.yersavich@epa.state.oh.us)  
614-644-2924

Ohio Development Services Agency, Office of Redevelopment  
77 South High Street, 26th Floor  
Columbus, OH 43215-6130

Contact(s): Thea Walsh  
Deputy Chief  
[Thea.Walsh@development.ohio.gov](mailto:Thea.Walsh@development.ohio.gov)  
614-995-2292

### Program Overview

- Brownfield Program
- Cost to Enter the Program: Fee structure
- Liability Relief Provisions
- Tax Incentives
- Ohio Brownfields Redevelopment Toolbox

## PROGRAM

**Voluntary Action Program (VAP)** – Created to give companies a way to investigate possible environmental contamination, clean it up if necessary, and receive a promise from the State of Ohio that no more cleanup is needed. <http://www.epa.state.oh.us/derr/volunt/volunt.aspx>

**Site Assistance & Brownfield Revitalization Program (SABR)** – Serves as the contact for brownfields or contaminated sites not yet in any cleanup program (e.g., VAP, remedial response, Superfund, Resource Conservation and Recovery Act (RCRA) corrective action). <http://www.epa.state.oh.us/derr/SABR/sabr.aspx>

**Office of Redevelopment** – Assists communities in creating wealth from personal, business and community successes. The Office of Redevelopment works to identify the resources and financing necessary to assess, clean up and redevelop brownfields. <http://development.ohio.gov/>

- **Funding Source(s) for the Program:** Program fees and federal grants.
- **Cost to enter program or fees for service:** Fee structure. <http://www.epa.ohio.gov/portals/30/vap/docs/instr-att-fee.pdf>
- **Sites Enrolled in VCP:** As of August 2012, 491 No Further Action (NFA) letters have been issued since the inception of the program in 1994.
- **Sites Completed under VCP:** As of August 2012, 385 properties have received a Covenant Not to Sue (CNTS) from Ohio EPA.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance is available to assist with brownfields reuse projects. <http://epa.ohio.gov/portals/0/generalpercent20pdfs/funding.pdf>

### Incentives

Tax Abatement—upon issuance of a CNTS from the Director of the Ohio EPA for a remedy under the VAP, the Department of Taxation will grant a tax exemption to the property (ORC 5709.87). <http://www.epa.state.oh.us/portals/30/vap/docs/taxpercent20Incentives.pdf>.

### Liability Relief Provisions

A person undertaking a voluntary action contracts with consultants certified by Ohio EPA to perform investigation and cleanup activities in this program. Once the cleanup is done, the Agency-certified consultant, a certified professional (CP), and a laboratory also certified by Ohio EPA prepare an NFA letter to demonstrate that proper investigation and cleanup activities were performed and that no further action is needed. If the data show that the work was conducted properly, Ohio EPA can issue a CNTS, which promises the volunteer that the State of Ohio will not require further investigation or cleanup of the property. <http://www.epa.ohio.gov/portals/30/vap/docs/fact1.pdf>

### Ohio Brownfields Redevelopment Toolbox

The purpose of this Toolbox is to explain the brownfields process in straightforward terms, and provide rural and smaller city governments/entities/communities with a systematic, start-to-finish guide to brownfields redevelopment. <http://www.epa.state.oh.us/portals/30/SABR/docs/Ohiopercent20Brownfieldpercent20Toolbox.pdf>

### Small/Rural Community Brownfield Assistance Website

This website allows individuals interested in knowing what state, federal and private brownfields technical and financial assistance and incentives are available in each of Ohio's 88 counties. Simply click on a county and information about incentives and assistance, with Web links

and contact information, is listed in an easy to read and easy to print-out format. This website is updated frequently and consistently as new incentives are created and/or old incentives expire. [http://www.epa.ohio.gov/derr/sabr/Small Rural Community Brownfield Assistance.aspx](http://www.epa.ohio.gov/derr/sabr/Small_Rural_Community_Brownfield_Assistance.aspx)

## PROGRAM ELEMENTS

### Methods/Standards/Controls

In accordance with Ohio Revised Code Chapter 3746, Ohio EPA developed the necessary rules with considerable input from a steering committee and technical subcommittees representing diverse interests, such as environmental advocacy groups, manufacturers, environmental consultants, cities and counties, bankers, and medical professionals. <http://www.epa.state.oh.us/derr/derrules.aspx>

### Contaminants Covered

Hazardous substances and/or petroleum. Sites contaminated with petroleum from Underground Storage Tanks (UST), except in very specific instances, are not allowed entry into the VAP (see Program Highlights below which details new changes in petroleum UST eligibility). In general, sites contaminated with polychlorinated biphenyls (PCBs) after 1978, and which exceed 50 parts per million (ppm), are excluded from the program without prior remediation/compliance. Sites containing asbestos and lead-based paint are eligible for the VAP.

### Institutional Controls (IC)

Ohio EPA audits at least 25percent of the properties taken through the VAP. Engineering controls are maintained through Operations and Maintenance (O&M) Agreements. If the property's remedy relies on "activity and use limitations" (formerly known as use restrictions) to restrict property use, the volunteer must provide the CP a "proposed environmental covenant" that complies with ORC §5301.82. The proposed environmental covenant—with its activity and use limitations—is a remedy to support the CP's issuance of an NFA letter.

- **IC Tracking:** ICs are tracked through the division's database.
- **IC Oversight and Monitoring:** OEPA inspects ICs (activity and use) every five years.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

[http://www.epa.state.oh.us/derr/SABR/brown\\_dtb/browndtb.aspx](http://www.epa.state.oh.us/derr/SABR/brown_dtb/browndtb.aspx)

### Ohio's Brownfields Inventory Database

An up-to-date online database of the brownfield properties in the State of Ohio. Provides detailed property information. It also includes Google Maps support to allow users to use features such as pan, zoom, MAP Views Terrain/Satellite/Hybrid, and "Street-view." Advanced query grid tools allows you to filter, sort, group and even export brownfields data. <http://www.derr.epa.ohio.gov/Home.aspx>

## PROGRAM HIGHLIGHTS

With the signing of House Bill 153 in June 2011 and the signing of Senate Bill 294 one year later in June 2012, volunteers can now follow VAP cleanup requirements to address petroleum releases from USTs for both Class C and Class D Bureau of Underground Storage Tank Regulations (BUSTR) Sites. Class C sites, or orphan sites, are now eligible for the VAP as long as the release has been determined by BUSTR to be a release of petroleum from a UST system subject to the BUSTR laws, where the responsible person (RP) for the release is specifically determined by BUSTR to not be a viable person capable of undertaking or completing the required corrective actions. BUSTR determines the status of petroleum releases and will designate a release to be a Class C release when either the RP for the release is no longer around (e.g., an individual is deceased or a corporation is bankrupt) or the RP is specifically determined not to be financially able to assess and cleanup the release. Except for persons responsible for the Class C release, volunteers now have a choice to address a Class C release following either BUSTR rules or VAP rules. Under Senate Bill 294, which became effective on September 3, 2012, newly designated Class D sites are now also eligible for the VAP. Class D sites are sites with BUSTR UST releases where:

- The volunteer is not an RP, as defined by BUSTR, or the subject of a BUSTR administrative order or referral to the Attorney General's Office; and
- The property, on which the UST release exists, includes other non-BUSTR hazardous substances that are being addressed under the VAP.

## OTHER LAND PROGRAMS

### Federal Facilities

<http://www.epa.state.oh.us/derr/ACRE/FFS/ffs.aspx>

### Remediation Program

<http://www.epa.state.oh.us/derr/remedial/remedial.aspx>

### RCRA Corrective Action and Closure

<http://www.epa.state.oh.us/derr/RCRA.aspx>

## Remediation and Redevelopment Program

Wisconsin Department of Natural Resources (WDNR)  
101 South Webster Street, Box 7921  
Madison, WI 53707-7921  
<http://dnr.wi.gov/topic/Brownfields/>

Contact(s): Darsi Foss  
Brownfields and Outreach Section Chief  
[darsi.foss@wisconsin.gov](mailto:darsi.foss@wisconsin.gov)  
608-267-6713

### Program Overview

- Brownfield Program
- Cost to Enter the Program: Fee structure
- Financial Elements
- Liability Relief Provisions
- MOA with EPA Region 5
- Tax Incentives
- Brownfields Insurance Program

## PROGRAM

The WDNR's Remediation and Redevelopment Program provides technical and financial assistance and project oversight for local governments and private parties to clean up and redevelop brownfields. Customers work with project managers in the WDNR regional offices, with support from central office staff in Madison. All brownfields and voluntary cleanups are conducted in accordance with the Remediation and Redevelopment Program's comprehensive One Cleanup Program, following the Wisconsin Natural Resources Chapter 700 Administrative Code (Wis. Adm. Code) rule series for cleanup requirements; including federal underground storage tank (UST), Resource Conservation and Recovery Act (RCRA) corrective actions and closures, Superfund sites, and non-federal cleanups. Wisconsin does not have separate regulatory, brownfields or voluntary cleanup programs.

- **Funding Source(s) for the Program:** State fund, program fees, and federal grants.
- **Cost to enter program or fees for service:** WDNR employs two fee structures for parties' assistance in the cleanup and redevelopment of contaminated properties, depending on whether or not the site is seeking a Voluntary Party Liability Exemption. <http://dnr.wi.gov/topic/Brownfields/Fees.html>
- **Sites Enrolled:** As of July 2012, more than 3,713 sites are being cleaned up in the traditional cleanup program, seeking closure letters. Approximately 97 active sites are in the Voluntary Party Liability Exemption (VPLE) process, seeking Certificates of Completion (COC).
- **Sites Completed:** As of July 2012, more than 24,307 sites have received close-out letters and 114 sites have received COCs.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of state and federal grants, loans and technical assistance is available to assist with brownfields reuse projects. <http://dnr.wi.gov/topic/Brownfields/Financial.html>

### Incentives

A variety of tax incentives are available to assist with brownfields reuse projects. <http://dnr.wi.gov/topic/Brownfields/Financial.html>

### Liability Relief Provisions

Program offers two primary forms of end-relief after cleanup is completed:

- **Case closure letters** — Per Ch. NR 726 for the traditional cleanup process.
- **COCs** – By entering the VPLE process, a party can earn a COC, which provides the party an exemption from future liability for past contamination. The COC is transferable to new owners.

Wisconsin also offers liability exemptions for lenders, local governments and off-site property owners (i.e., neighboring owners impacted by contamination migrating off-site). <http://dnr.wi.gov/topic/Brownfields/Liability.html>

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Wisconsin has a soil cleanup standard rule (ch. NR 720, Wis. Adm. Code) that applies to all sites with soil contamination. The rule provides a responsible party (RP) several options for addressing soil contamination, including: 1) using table values for the limited number of compounds included in the rule; 2) developing site-specific soil cleanup standards using the methodology set out in the rule; or 3) utilizing performance standards (such as caps or covers) to ensure that soil contaminants do not pose a threat to human health or the environment.



Ground water must meet state enforcement standards or the RP must demonstrate that adequate source control measures have been taken, the plume is stable or receding, and that natural attenuation will bring the ground water into compliance with standards within a reasonable period of time. <http://dnr.wi.gov/topic/Brownfields/Laws.html>

### One Cleanup Program

The WDNR and EPA Region 5 operate under the One Cleanup Program Memorandum of Agreement (MOA) between the two agencies. The Memorandum was the first EPA-state MOA to address cleanup requirements across several environmental media, including the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), RCRA, Toxic Substances Control Act (TSCA) and leaking underground storage tanks (LUST). Wisconsin's program simplifies cleanups of contaminated sites under different regulatory programs by providing a single, consolidated approach rather than utilizing a range of separate programs with potentially conflicting approaches and cleanup standards. <http://dnr.wi.gov/topic/brownfields/rrprogram.html>

### Contaminants Covered

All contaminants are included. Where federal requirements (e.g., RCRA, TSCA) apply, Wisconsin's One Cleanup Program clarifies state and federal roles.

### Institutional Controls (IC)/Continuing Obligations

Closures with residual contamination and certain remedial action approvals include ICs or "continuing obligations," legal and engineering requirements needed by current/new property owner(s) to maintain certain safeguards. These obligations include properly handling excavated contaminated soil, obtaining state approval before constructing a water supply well, maintaining a pavement cap over a contaminated area and complying with other property-specific obligations defined by the state.

<http://dnr.wi.gov/topic/Brownfields/Residual.html>

Three general situations where the state imposes property-specific continuing obligations are when:

- An engineering control requires long-term maintenance;
- A building or other structure that inhibited full investigation of the contamination is removed and further investigation and cleanup becomes possible; and
- The state imposes continuing obligations related to land use, such as industrial soil standards that are appropriate until the land use changes.

Continuing obligations are legally enforceable through a specific state law—not a site-specific deed instrument—and are applied to a site via the state's closure or remedial action plan approval. These documents are available to the public via the WDNR's online database.

- **IC Tracking:** Sites with ICs/continuing obligations are tracked using the following link: <http://dnr.wi.gov/topic/Brownfields/clean.html>
- **IC Oversight:** Each state regulatory agency has oversight for its own continuing obligations.
- **IC Monitoring:** WDNR audits 50 properties with continuing obligations per year using its EPA Section 128(a) Response Program funds. Each audit consists of a review of the state's file, an interview with the site owner, a visit to the property, a written summary, and ensuring return to compliance when necessary.

## PROGRAM HIGHLIGHTS

The new, Clock Shadow, "living" building replaces an abandoned lot contaminated with lead and polycyclic aromatic hydrocarbons (PAHs) from a former metal shop and junkyard. The Clock Shadow building was designed to reduce demand for energy by capturing natural light and solar energy. The building includes operable windows to allow for natural air flow and through good design, encourages walking over mechanical elevator use. The building reuses all stormwater onsite for use to irrigate rooftop food production; captures excess rainwater and building grey water discharge into a cistern that re-circulates to feed the internal water demand for toilet flushing; and encouraging water conservation practices by building occupants. The building contains a number of other "sustainable" features.

The City of Milwaukee assisted the project with a brownfields cleanup loan. WDNR assisted in moving the project forward by applying a number of cost- and time-saving tools, including: RCRA Area of Contamination Policy, which allowed for materials to be managed on site versus disposing of 1,270 tons of material, with a cost savings of up to \$250,000; acquisition via 75.106 tax assignment; exemption to build on an historic fill site; and brownfields federal tax incentive.

Visit the Clock Shadow Building website at <http://www.fixdevelopment.com/clock-shadow-building/living-building-challenge/>

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# EPA REGION 6

## Brownfields Program

Arkansas Department of Environmental Quality (ADEQ)  
Hazardous Waste Division  
5301 Northshore Drive  
North Little Rock, AR 72118-5317  
<http://www.adeg.state.ar.us/hazwaste/>

Contact(s): Terry Sligh  
Environmental Program Coordinator  
[terry@adeg.state.ar.us](mailto:terry@adeg.state.ar.us)  
501-682-0867

### Program Overview

- Brownfield Program
- Cost to Enter the Program: N/A
- MOA with EPA Region 6 (December 2000)
- Liability Relief Provisions

## PROGRAM

The Arkansas Department of Environmental Quality (ADEQ) is administering its Brownfields Program to redevelop properties with either real or perceived hazardous substance contamination. ADEQ hopes to encourage the development of brownfields as a sustainable land use policy and discourage the development of greenfields or pristine properties in the State of Arkansas.

<http://www.adeg.state.ar.us/hazwaste/bf/default.htm>

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** A fee schedule has not been established for the Brownfields Program.
- **Sites Enrolled in VCP:** As of July 2012, 78 sites were enrolled in the Brownfields Program.
- **Sites Completed under VCP:** As of July 2012, 26 brownfields were completed.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

Arkansas Brownfields Program Section 128(a) Response Program funding is available to municipalities, quasi-governmental organizations and nonprofits for Phase I and Phase II Environmental Site Assessments (ESA) and minor site cleanup. ADEQ may spend up to \$200,000 per site for environmental site assessments under EPA's Targeted Brownfields Assessment (TBA) Program. The state performs targeted site assessments to characterize the nature and extent of site contamination. This characterization is at no cost to an eligible program participant, and provides assistance in quantifying the need for and potential cost of cleanup.

<http://www.adeg.state.ar.us/hazwaste/bf/default.htm#FinancialAssist>

### Liability Relief Provisions

The Implementing Agreement (IA) establishes cleanup liabilities and obligations for the abandoned site. The brownfields participant is not relieved of any liability for contamination later caused by the participant, or contamination not intended to be addressed in the IA, after acquisition of legal title to the brownfield site. A prospective purchaser of an abandoned site will not be responsible for paying any fines or penalties levied against any person responsible for contamination on the abandoned site prior to the IA with ADEQ.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

The state's cleanup standards are based on a risk management process. No single set of soil cleanup levels has been implemented and site-specific factors are considered when developing action levels. Cleanup goals may be met by reaching background metals concentrations, consulting EPA Region 6 Human Health Media Specific Screening Levels, performing a traditional human health risk assessment, or a combination of all three options when appropriate.

### Contaminants Covered

TBA funding may only be used at sites as authorized by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended by the Superfund Amendments and Reauthorization Act (SARA) of 1986. The site must be contaminated or suspected to be contaminated with hazardous substances.

### **Institutional Controls (IC)**

Arkansas does not have a system to monitor or enforce long-term stewardship and ICs. ICs are listed in the Arkansas Record of Brownfields Projects, which is available on the website.

- **IC Tracking, Oversight and Monitoring:** Arkansas does not have a system to track, monitor or enforce ICs. The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state  
<http://www.adeg.state.ar.us/hazwaste/bf/brownfield.asp>

### **PROGRAM HIGHLIGHTS**

The Former Martindale Clinic located at 114 South Main Street, Hope housed a medical clinic and pharmacy from 1951 until 1978 when the owner/operator abandoned the business. Most of the clinic/pharmacy equipment and medical supplies, including chemicals were left behind. The City of Hope entered the property into the Arkansas Brownfields Program in 2005. ADEQ issued an emergency order in March of 2006 for removal of the hazardous wastes and hazardous substances at the site. Following the emergency order, a TBA provided by the ADEQ Brownfields Program was conducted on the property. The assessment determined the waste types of concern remaining on the site were asbestos-containing material (ACM), regulated asbestos-containing material (RACM), lead-based paint (LBP), and lead containing dust from deteriorated LBP. The City of Hope applied for and received a sub-grant award from the Arkansas Brownfields Revolving Loan fund. The sub-grant total for removal and disposal of asbestos and lead based paint was \$47,863.00. The site was issued a Certificate of Completion in June of 2011. The City of Hope is currently redeveloping the property to become the location for a free medical clinic that will provide a beneficial use for the citizens of Hope and the surrounding area.

### **OTHER LAND PROGRAMS**

#### **Regulated Storage Tanks (RST) Program**

<http://www.adeg.state.ar.us/rst/default.htm>

## Voluntary Remediation Program (VRP) / Brownfields Initiative

Louisiana Department of Environmental Quality (DEQ)  
P.O. Box 4314  
Baton Rouge, LA 70821-4314  
[www.deq.la.gov/brownfields](http://www.deq.la.gov/brownfields)

Contact(s): Roger Gingles  
[brownfields@la.gov](mailto:brownfields@la.gov)  
225-219-3499

### Program Overview

- Brownfield Program
- Cost to Enter the Program: \$500
- MOA with EPA Region 6 (October 2004)
- Liability Relief Provisions

## PROGRAM

The Louisiana Voluntary Remediation Program (VRP) provides a mechanism by which property owners (or potential owners) or others can clean up contaminated properties and receive a release of liability for further cleanup of historical contamination at a site. This release of liability flows to future owners of the property as well. [www.deq.la.gov/brownfields](http://www.deq.la.gov/brownfields)

- **Funding Source(s) for the Program:** Federal grants (90percent) and state cleanup fund (10percent).
- **Cost to enter program or fees for service:** \$500. Applicant must reimburse the Louisiana Department of Environmental Quality (DEQ) for the actual direct costs of oversight. Waivers for oversight costs are available to government and nonprofit VRP applicants as funding permits.
- **Sites Enrolled in VCP:** As of July 2012, 127 sites were enrolled in the program.
- **Sites Completed under VCP:** As of July 2012, 63 Certifications of Cleanup (COC) were issued, and 11 No Further Action (NFA) letters were issued.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

Louisiana Brownfields Cleanup Revolving Loan Fund

<http://www.deq.louisiana.gov/portal/PROGRAMS/BrownfieldsandVoluntaryRemediationProgram/LouisianaBrownfieldsCleanupRevolvingLoanFund.aspx>

### Liability Relief Provisions

Any person who is not otherwise a responsible person will not be liable for the discharge or disposal, or threatened discharge or disposal of the hazardous substance or waste, if the person undertakes and completes a remedial action to remove or remedy discharges or disposals and threatened discharges or disposals of hazardous substances and wastes at a property; in accordance with a voluntary remedial action plan approved in advance by the Louisiana DEQ following public notice and the opportunity for a public hearing in the affected community.

<http://www.deq.louisiana.gov/portal/Portals/0/planning/regs/eqa.pdf>

## PROGRAM ELEMENTS

### Methods/Standards/Controls

10-4 to 10-6 and Hazard Index of 1; three tiers of Management Options under RECAP (a risk-based system in Louisiana).

### Contaminants Covered

No restrictions based on contaminants, petroleum, asbestos, lead paint, polychlorinated biphenyls (PCBs) are all covered. Asbestos and lead paint abatement sites where there is no release to the environment are not eligible for VRP participation (i.e., only indoor abatement site are eligible).

### Institutional Controls (IC)

Use restrictions for partial voluntary remedial actions.

- **IC Tracking:** ICs are tracked through the general site management database. The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state. <http://map.deq.state.la.us/index2.htm>

## **PROGRAM HIGHLIGHTS**

Louisiana DEQ used its Section 128(a) Response Program funding to conduct cleanup activities at several sites. Cleanups at the Mid City Redevelopment Alliance headquarters (Baton Rouge) (former car dealership and auto service) and the Volunteers of America of Northwest Louisiana (Shreveport) were completed in summer 2010. Cleanup of two properties in Shreveport—the former City Hall Annex, which will become the new Greyhound Multi-Modal Terminal facility, and the former Central Fire Station, which will become the new headquarters for the Shreveport Arts Council—were funded by Section 128(a) Response Program funding and were completed in 2011. A cleanup of a former gas station along the Enterprise Boulevard Corridor project (Lake Charles), as well as a cleanup of a former gas station property, which will be the new Westwego Governmental Building Complex (Westwego, in the metro New Orleans area), were completed in summer 2012. Louisiana DEQ has completed its second Targeted Brownfields Assessment (TBA), accomplishing over 20 assessments, and is now implementing its third contract (TBA III). This TBA will include a focus on the historic Shreveport Commons area near downtown Shreveport, as well as other promising properties throughout the state.

## **OTHER LAND PROGRAMS**

### **Underground Storage Tank (UST) Program**

<http://www.deq.louisiana.gov/portal/tabid/2674/Default.aspx>

## Voluntary Remediation Program (VRP)

New Mexico Environment Department (NMED)  
Harold Runnels Building  
1190 St. Francis Drive  
P.O. Box 5469  
Santa Fe, NM 87502  
<http://www.nmenv.state.nm.us/>

Contact(s): Dale Doremus  
Program Manager  
[dale.doremus@state.nm.us](mailto:dale.doremus@state.nm.us)  
505-827-2754

Pam Homer  
VRP Team Leader  
[pamela.homer@state.nm.us](mailto:pamela.homer@state.nm.us)  
505-827-2242

### Program Overview

- Voluntary Remediation and Brownfields Program
- Cost to Enter the Program: \$1,000 plus oversight fees for VRP; no cost for TBA services
- MOA with EPA Region 6 (December 1999)
- Liability Relief Provisions

## PROGRAM

New Mexico's Voluntary Remediation Program (VRP), established in 1999, provides incentives for the voluntary assessment and remediation of contaminated properties, with oversight by the New Mexico Environment Department (NMED); it removes future liability of lenders and landowners. The VRP is intended to encourage redevelopment of contaminated sites (i.e., brownfields) by providing a streamlined, non-punitive remediation process. <http://www.nmenv.state.nm.us/gwb/NMED-GWQB-VoluntaryRemediationProgram.htm>

- **Funding Source(s) for the Program:** Federal grants, Revolving Loan Fund (RLF) repayments and oversight fees.
- **Cost to enter the VRP:** As of October 2012, there were 33 active sites in the program.
- **Sites Enrolled in VRP:** As of October 2012, 69 sites had completed cleanups through the program.
- **Sites Completed under VRP:** As of October 2012, 69 sites had completed cleanups through the program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

EPA's Targeted Brownfields Assessment (TBA) funding enables NMED to offer Phase I and II assessments and remediation planning for sites owned by local/tribal governments or nonprofit organizations. Low-interest loans for remediation are available to public and private entities through NMED's Brownfields Revolving Loan Fund.

<http://www.nmenv.state.nm.us/gwb/NMED-GWQB-Brownfields.htm>

### Liability Relief Provisions

Upon successful completion of a voluntary remediation project, NMED provides a Covenant Not to Sue (CNTS) to a purchaser or prospective purchaser of the site that did not contribute to the site contamination, for any direct liability, including future liability for claims based upon the contamination covered by the voluntary remediation agreement and over which NMED has authority.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Voluntary remediation activities must achieve applicable standards, or where applicable standards are not prescribed, a site-specific human-health and environmental risk assessment may be performed to identify risk-based cleanup levels.

### Contaminants Covered

Solid waste, hazardous waste, Comprehensive Environmental Response Compensation and Liability Act (CERCLA) hazardous substances, and any substance that could alter, if discharged or spilled, the physical, chemical, biological or radiological quality of water.



### **Institutional Controls (IC)**

Conditional Certificates of Completion are issued if monitoring, engineering controls, remediation systems, post-closure care, or affirmation of future non-residential land use are necessary to ensure that the performance standard is achieved. NMED performs periodic audits of required institutional or engineering controls.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.nmenv.state.nm.us/gwb/NMED-GWQB-VoluntaryRemediationProgram.htm>

### **PROGRAM HIGHLIGHTS**

The Lexington Hotel is located on historic Route 66 in Gallup, New Mexico, near the Navajo Nation and Zuni Pueblo Reservations. The 1930s-era hotel was showing its age when the nonprofit organization Community Area Resource Enterprise, Inc. (CARE 66) acquired the property in 2009. CARE 66 had a vision to provide supportive and transitional housing for low-income individuals. Phase I and II environmental site assessments funded by EPA Region 6 Assessment grants revealed the need for asbestos remediation. In 2011 NMED used its Section 128(a) Response Program funding to assess alternatives and develop the remediation and quality assurance plans with community input. CARE 66 then obtained an American Recovery and Reinvestment Act (ARRA) sub-grant through NMED's Brownfields Revolving Loan Fund to complete the cleanup. Additional support for the Lexington's \$2.3 million rehabilitation came from the Navajo Housing Authority, the Department of Housing and Urban Development (HUD) Rural Housing and Economic Development, the New Mexico Legislature, the U.S. Congress, the Daniels Fund, and a local Gallup family. The renovation was completed and the new facility began operating in 2012.



The Lexington Hotel after Renovations

### **OTHER LAND PROGRAMS**

#### **Petroleum Storage Tank Bureau**

<http://www.nmenv.state.nm.us/ust/ustbtop.html>

#### **Superfund Program**

<http://www.nmenv.state.nm.us/gwb/NMED-GWQB-SuperfundOversight.htm>

## Brownfields Program

Oklahoma Department of Environmental Quality (DEQ)  
Land Protection Division  
P.O. Box 1677  
Oklahoma City, OK 73101-1677  
<http://www.deq.state.ok.us/lpdnew/>

Contact(s): Lloyd Kirk  
Brownfields Manager  
[lloyd.kirk@deq.ok.gov](mailto:lloyd.kirk@deq.ok.gov)  
405-702-5131

## Brownfields Program

Oklahoma Corporation Commission (OCC)  
Oil and Gas Conservation Division  
P.O. Box 52000  
Oklahoma City, OK 73152-2000  
<http://www.occeweb.com/og/brownfields.htm>

Contact(s): Patricia Billingsley  
Brownfields Manager  
[P.Billingsley@occemail.com](mailto:P.Billingsley@occemail.com)  
405-522-2758

### Program Overview

- Brownfields Program (DEQ and OCC)
- Cost to Enter the Program:  
Reimbursement of Oversight costs (DEQ and OCC)
- MOA with EPA Region 6 (April 1999) (DEQ)
- Liability Relief Provisions (DEQ)
- Financial Incentives (DEQ)

## PROGRAM

The Oklahoma Department of Environmental Quality (DEQ) Brownfields Program provides a means for private parties, public and governmental entities, and nonprofits to voluntarily investigate and, if warranted, clean up properties that may be contaminated by pollution. The brownfields process includes a Consent Order (CO) for site characterization and remediation. <http://www.deq.state.ok.us/lpdnew/brownfindex.html>

The Oklahoma Corporation Commission's (OCC) Voluntary Cleanup and Brownfields Programs provide a means for private parties, public and governmental entities, and nonprofits to voluntarily investigate and, if necessary, clean up properties that may be contaminated with petroleum, produced water/brine, gasoline, diesel or other deleterious wastes from oil and gas exploration and production (Oil and Gas E&P) related sites, or from leaking underground petroleum storage tank (PST) sites. This program also issues state Petroleum Eligibility letters and helps arrange funded assessments and cleanups through the Oklahoma Energy Resources Board (OERB) or the Petroleum Storage Tank (PST) Division's Indemnity fund, or an EPA Targeted Assessment. <http://www.occeweb.com/og/brownfields.htm>

- **Funding Source(s) for the Program:** Federal grants, Oversight Cost Reimbursement (DEQ); State Cleanup Funds (OCC).
- **Cost to Enter Program or Fees for Service:** Oversight cost reimbursement (DEQ); None (OCC).
- **Sites Enrolled in VCP:**
  - **DEQ** – As of August 2012, 13 sites were currently enrolled in the program.
  - **OCC** – Since the start of the program less than five years ago, 1945 sites, mainly rural, have been inspected and evaluated between brownfields qualified (510) and simple junk and debris sites. Of the brownfields qualified sites, 461 have been referred to OERB for cleanup. This year so far 229 inspected sites have been inspected. Fifteen sites, complex and/or urban, are currently enrolled in the OCC program for a cleanup with certificate.
- **Sites Completed under VCP:**
  - **DEQ** – As of August 2012, 12 Brownfields Certificates of No Action Necessary have been issued. Fourteen Brownfields Certificates of Completion (COC) have been issued.
  - **OCC** – As of July 2012, four sites have completed the OCC Brownfields Program and been given a COC. So far 80percent of the brownfields-eligible sites referred to OERB have had an OERB cleanup completed or are scheduled for a cleanup.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- DEQ provides Targeted Brownfields Assessments (TBA) to public entities and nonprofit groups. Low-interest loans and grants are available to nonprofit and public entities for cleanup. Public, nonprofit and private entities may obtain low interest loans from DEQ's Brownfields Revolving Loan Fund (RLF).

- The State Clean Water Revolving fund may be accessed for the cleanup of brownfields that have the potential to impact waters of the state.
- OCC provides no-cost Electromagnetic (EM) sites surveys to public and private entities enrolled in the program, and refers governmental and nonprofit owned sites to EPA for TBAs. It also inspects and refers sites to the Oklahoma Energy Resources Board for a funded oil and gas site assessment and cleanup, and eligible PST sites to the state Petroleum Storage Tank Indemnity Fund.

### Incentives

Oklahoma Sales Tax Code exempts state sales tax on machinery, fuel, chemicals, and equipment used in cleanup projects under DEQ authorities. Basic industries that locate their primary business on a DEQ brownfield site may qualify for incentive payments under the Oklahoma Quality Jobs Act. <http://www.deq.state.ok.us/lpdnew/Brownfields/brownfiledsfinancialincentives 5-15-12.pdf>

### Liability Relief Provisions

For completed brownfields actions, for which DEQ has issued a COC or Certificate of No Action Necessary, DEQ is prohibited from assessing administrative penalties or pursuing civil actions against the participants in the program as well as any lender, lessee, successor or assign if they are in compliance with any post-certification conditions or requirements as specified in the Certificate of No Action Necessary, or COC (DEQ). Since DEQ has a Brownfields Memorandum of Agreement with EPA, the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) enforcement bar applies to sites that complete DEQ's program.

Upon completion of projects under its jurisdiction, OCC offers a COC for Cleanup sites and a Certificate of No Further Action for sites where the assessment shows no significant pollution problem. OCC cannot assess administrative penalties or pursue civil actions against the participants in the program as well as any lender, lessee or successor, or assign if they are in compliance with any post-certification conditions or requirements. The federal government will not take an administrative or judicial enforcement action against sites in compliance with the state program

## PROGRAM ELEMENTS

### Methods/Standards/Controls

- Risk-Based Corrective Action (RBCA)-type processes are in place. Brownfields programs feature a risk-based system based on the proposed future use of the site to determine if cleanup is needed and if so, provide cleanup goals for the chemicals of concern.
- DEQ uses a three-tiered approach: 1) sampling data is compared to screening levels; 2) if data are higher than screening levels, state will generate conservative default cleanup levels using EPA Risk Assessment Guidelines for Superfund (RAGS)-based methodology; or 3) applicants may choose to do a risk assessment with state oversight to determine adequate cleanup goals.
- OCC requires sites to follow either the Oil & Gas Division's risk based Pollution Abatement Environmental (Guardian) Guidance, or the Petroleum Storage Tank Division's risk based ORBCA guidance. Both are risk based, comparing the pollution levels at a site to those calculated as necessary based on the site's use – residential, commercial, agricultural, etc.

### Contaminants Covered

- DEQ's Brownfields Program has authority over properties affected by pollution. Pollution is defined as “the presence in the environment of any substance, contaminant or pollutant, or any other alteration of the physical, chemical or biological properties of the environment or the release of any liquid, gaseous or solid substance into the environment in quantities which are or will likely create a nuisance or which render or will likely render the environment harmful or detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life, or to property.” However, the DEQ Brownfields Program will refer applicants to other agencies if the jurisdictional issues indicate that another agency could better serve the applicant.
- The OCC Brownfields Program is focused on helping entities redevelop land that is contaminated with substances relating to oil and gas exploration and production or that derives from leaking underground storage tanks. This includes crude oil, saline produced water/ brine, gasoline, and diesel.

### Institutional Controls (IC)

ICs are allowed if they adequately protect the public. DEQ has authority to implement land use controls, if necessary. DEQ currently has an ArcGIS system with a layer for ICs in the state. <http://www.deq.state.ok.us/mainlinks/gis/index.html>

- **IC Tracking:** DEQ internally tracks active and completed sites, and sites scheduled for completion in the next year are added to the Brownfields Public Record. When the certificate is issued the site is entered into the IC database. DEQ prefers multiple layers of ICs to ensure that the site remains protective long term.
- **IC Oversight:** DEQ oversees the project from site characterization to any required after-action, long-term monitoring. Participants must reimburse DEQ for its oversight costs. DEQ audits the sites and ICs every five years.

- **IC Monitoring:** If long-term monitoring is required at a DEQ site, a plan must be in place for long-term management, including a plan for payment of associated expenses and a contingency plan if contamination does not diminish over time, prior to a Brownfields Certificate being issued.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.deq.state.ok.us/lpdnew/Brownfields/Publicpercent20Recordpercent20Brownfieldspercent20Augustpercent202012.pdf>

Under the OCC Brownfields Program, ICs are one of the many choices that can be made at a site in order to protect the public. The public record is at: <http://www.occeweb.com/og/brownfields/bfpub.htm>; the inventory site list is available upon request. Ground water sites can be listed in the Oklahoma Water Resources Board's Appendix H, which lists areas with special requirements, including zones to be cased off or even prohibitions on installing water wells as necessary.

## PROGRAM HIGHLIGHTS

In December 2009, DEQ was awarded \$1.9 million through the American Recovery and Reinvestment Act (ARRA). With this funding, DEQ was able to award nine grants each totaling \$200,000. DEQ has funded many brownfields redevelopment projects in communities across the state. The following are some of the projects that DEQ and OCC have worked on using ARRA or EPA RLF funding.

- DEQ awarded an ARRA grant to the George Kaiser Family Foundation to conduct a cleanup of underground storage tanks (UST) in an underserved area of Tulsa. The Foundation knew that there were two tanks in the footprint of a park it planned to build. DEQ made \$200,000 available to the Foundation for the tank pull and environmental remediation. Once work began, the Foundation found 12 tanks in the one city-block area. The remediation is complete and the park is nearing completion. Below the park, the Foundation installed a geothermal well-field, which will serve to heat and cool an old warehouse that is being converted to a museum and art center. The park is in the Brady Arts District, which is a developing area of Tulsa.
- DEQ awarded an ARRA Brownfields Revolving Loan Subgrant to the Town of Seiling in August of 2010 for up to \$200,000. The Town used the funding for the abatement of asbestos containing materials located within an old American Legion building in the downtown business district. The building was torn down to provide a new parking lot for the downtown merchants. The Town had lost its entire downtown street parking when the highway through town was expanded. This is a great example of a brownfields project in a rural community.
- DEQ awarded an ARRA Brownfields Revolving Loan Subgrant to Love Link Ministries in August of 2010 for up to \$200,000. Love Link is using the funding to install a sub-slab depressurization system within the former NuWay Dry Cleaner & Laundry Building in Oklahoma City in order to mitigate vapor intrusion issues caused by residual dry cleaner chemicals that remain beneath the building. The building will be used to assist the homeless by housing a food pantry, providing job training, etc.
- The new Devon Energy world headquarters has almost completed construction, with the exterior complete and the interior up to 23 stories complete and occupied. This new building is 908 feet tall, has 50 floors, and will total 1.8 million square feet with costs of about \$750 million. Part of this site was previously occupied by Oklahoma City's Galleria Parking Garage. Before Devon acquired the site, Phase II studies were conducted using a grid pattern of soil borings. Contamination was found and several USTs were eventually located. The USTs and 280 cubic yards of contaminated soil were removed and 61,814 gallons of contaminated water was disposed. \$450,000 for the soil cleanup and tank removal was underwritten by the OCC's Petroleum Storage Tank Indemnity fund.

## OTHER LAND PROGRAMS

### Petroleum Storage Tank Program (OCC)

<http://www.occeweb.com/ps/abcs.html>

### Superfund Program (DEQ)

<http://www.deq.state.ok.us/lpdnew/sfindex.html>

### Voluntary Clean Up Program (DEQ)

<http://www.deq.state.ok.us/lpdnew/VCPIndex.htm>

## Voluntary Cleanup Program

Texas Commission on Environmental Quality (TCEQ)  
 MC 221  
 P.O. Box 13087  
 Austin, Texas 78711-3087  
<http://www.tceq.texas.gov/goto/vcp>

Contact(s): Anna Rodriguez Brulloths  
 VCP-CA Manager  
[Anna.R.Brulloths@tceq.texas.gov](mailto:Anna.R.Brulloths@tceq.texas.gov)  
 512-239-5052

TCEQ Brownfields Site Assessment Program  
 MC 221  
 P.O. Box 13087  
 Austin, Texas 78711-3087  
<http://www.tceq.texas.gov/goto/bsa>

Contact(s): Christine Whitney  
 Brownfields Program Manager  
[Christine.Whitney@tceq.texas.gov](mailto:Christine.Whitney@tceq.texas.gov)  
 512-239-0843

Voluntary Cleanup Program (VCP) and Brownfields Response Program (BRP)  
 Railroad Commission (RRC) of Texas  
 P.O. BOX 12967  
 Austin, TX 78711-2967  
<http://www.rrc.state.tx.us/environmental/>

Contact(s): Aimee Beveridge  
 Voluntary Cleanup Program Manager  
[aimee.beveridge@rrc.state.tx.us](mailto:aimee.beveridge@rrc.state.tx.us)  
 512-463-7995

Program Overview
<ul style="list-style-type: none"> <li>• Brownfields Program (TCEQ and RRC)</li> <li>• Cost to Enter the Program: \$1,000 plus oversight fees (TCEQ and RRC)</li> <li>• Liability Relief Provisions (TCEQ and RRC)</li> <li>• Tax Incentives (TCEQ and RRC)</li> </ul>

## PROGRAM

The Texas Commission on Environmental Quality (TCEQ) in close partnership with EPA and other federal, state, local redevelopment agencies, and stakeholders, is facilitating cleanup, transferability and revitalization of brownfields through the development of regulatory, tax and technical assistance tools.

Voluntary Cleanup Program – <http://www.tceq.texas.gov/goto/vcp>  
 Innocent Owner/Operator Program (IOP) – <http://www.tceq.texas.gov/goto/iop>  
 Brownfields Site Assessments Program – <http://www.tceq.texas.gov/goto/bsa>

In order to encourage redevelopment at abandoned oil and gas facilities, the Railroad Commission of Texas (RRC) offers assistance to private landowners and land developers through the Voluntary Cleanup Program (VCP) and governments, nonprofit organizations, tribes, and universities through its Brownfields Response Program (BRP).

Voluntary Cleanup Program – <http://www.rrc.state.tx.us/environmental/environsupport/voluntarycleanup.php>  
 RRC Brownfield Response Program (BRP) – <http://www.rrc.state.tx.us/environmental/environsupport/brownfield/index.php>

- **Funding Source(s) for the Program:** State remediation fund and federal grants.
- **Cost to enter program or fees for service:** \$1,000 application fee; applicant must reimburse TCEQ for the direct costs of oversight.
- **Sites Enrolled in VCP:**
  - **TCEQ** – As of June 2012, the VCP had received 2,508 applications representing dry cleaners, manufacturing facilities, shopping centers, warehouses, auto-related businesses, and other commercial and industrial enterprises.
  - **RRC** – As of November 2010, 100 sites were entered into the VCP and BRP.

#### ■ Sites Completed under VCP:

- **TCEQ** – As of June 1, 2012, 1,761 sites were issued Certificates of Completion (COC).
- **RRC** – As of November 2010, 8 brownfields certificates and 42 VCP certificates have been granted.

### FINANCIAL ELEMENTS

#### Assessment and Cleanup Funding

- Under the Brownfields Site Assessment Program, TCEQ will direct the completion of a limited number of federally funded site assessments for qualifying local governments and nonprofit groups in Texas.
- The Dry Cleaning Program is supported by fees on dry cleaning solvents and dry cleaning facilities. The program will perform corrective action of releases from dry cleaning facilities.
- The RRC offers state-funded cleanup assistance for qualified sites under its BRP.

#### Incentives

Some local governments within the state offer ad valorem property tax abatements to attract brownfields cleanup and redevelopment. Senate Bill 1596 and House Bill 1239 of the 75th Texas Legislative Session added Section 312.211 to the Texas Tax Code. This section allows municipal or county taxing authorities to provide property tax relief for the development or redevelopment of certain brownfields properties that are located within a reinvestment zone and have been cleaned up through the programs.

#### Liability Relief Provisions

After completion of the cleanup, parties will receive a COC from TCEQ or RRC, which states that all non-responsible parties are released from all liability provided by Chapter 91 Subchapter O, Texas Natural Resources Code.

### PROGRAM ELEMENTS

#### Methods/Standards/Controls

The Texas Risk Reduction Program (TRRP) follows a Risk-Based Corrective Action process (RCBA) that allows for the use of engineering and institutional controls. All TCEQ and RRC sites are evaluated using the TRRP rule. A VCP applicant may use state developed cleanup levels or site-specific data to develop site-specific cleanup levels. <http://www.tceq.texas.gov/remediation/standards>

#### Contaminants Covered

Both the TCEQ and RRC programs address all contaminants in soil and ground water. RRC jurisdiction is limited to contamination associated with oil and gas extraction while the TCEQ jurisdiction includes all other solid, industrial and hazardous waste.

#### Institutional Controls (IC)

ICs must be placed on a property record for a site that uses commercial/industrial risk-based standards, and for any property that relies on the use of physical control (e.g., cap or remediation system) to prevent exposure. The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state. <http://www.tceq.texas.gov/goto/vcp>  
<http://www.rrc.state.tx.us/environmental/environsupport/voluntarycleanup.php>

### PROGRAM HIGHLIGHTS

Belo Garden construction began in March 2011 and the park opened to the public in May 2012. Belo Garden is approximately 1.46 acres and was formerly used as a parking lot. Over the past 100 years, the site was used for a wide array of purposes, including but not limited to, three petroleum-oil related facilities, two hat manufacturers, a car repair facility and a paint shop (as well as residential housing dating back to the 1880s). The City of Dallas was awarded two grants to clean up the site, one from the North Central Texas Council of Governments and one from EPA. The site entered into the Voluntary Cleanup Program (VCP No. 2286) to ensure that the park met state environmental standards. Remediation of affected soil included the excavation and disposal of surface and sub-surface soils exceeding the critical protective concentration levels (PCLs) to an approved landfill disposal facility. Approximately 21,194 cubic feet of affected soil was characterized (through sampling), stabilized and removed from the



site. Ground water was not impacted. The new Belo Park features perennial gardens, shaded groves, plaza spaces, an interactive fountain, a 10-foot high hill (which provides topographical relief and views over the central fountain plaza), a shaded garden grove and more. In addition to funding from City of Dallas bonds, federal grants and other private sources, Belo Corp. committed \$6.5 million toward the \$14.5 million construction of the park.

#### **OTHER LAND PROGRAMS**

##### **Petroleum Storage Tanks (PST) Program**

[http://www.tceq.state.tx.us/nav/permits/pst\\_cert.html](http://www.tceq.state.tx.us/nav/permits/pst_cert.html)

##### **Dry Cleaner Remediation Program**

[http://www.tceq.state.tx.us/remediation/dry\\_cleaners/](http://www.tceq.state.tx.us/remediation/dry_cleaners/)

##### **Superfund Program**

<http://www.tceq.state.tx.us/remediation/superfund/>

##### **Abandoned Mine Lands Reclamation Program (RRC)**

<http://www.rrc.state.tx.us/programs/mining/aboutaml.php>



The Belo Garden Redevelopment

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# EPA REGION 7

## Brownfield Redevelopment Program and Land Recycling Program (LRP)

Iowa Department of Natural Resources (DNR)  
Wallace State Office Building  
502 East 9th Street  
Des Moines, IA 50319  
<http://www.iowabrownfields.com>

Contact(s): Mel Pins  
Program Coordinator  
[mel.pins@dnr.iowa.gov](mailto:mel.pins@dnr.iowa.gov)  
515-281-8489

### Program Overview

- State Response Program
- Cost to Enter the Program: \$750 plus oversight fees
- MOA with EPA Region 7 (June 2004)
- Liability Relief Provisions
- Tax Incentives through IDED

## PROGRAM

The Iowa Land Recycling Program (LRP) was established in 1997 and the Brownfield Redevelopment Program was established in 2004. The goal of the programs is for communities and other stakeholders in economic development to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields in Iowa. <http://www.iowabrownfields.com>.

- **Funding Source(s) for the Program:** Federal grants (69percent), oversight fees (26percent), and state cleanup fund (5percent).
- **Cost to enter program or fees for service:** There is an initial \$750 application fee, and reimbursement of actual state oversight costs is capped at \$7,500.
- **Sites Enrolled in VCP:** As of October 2011, 27 sites were actively enrolled in the program.
- **Sites Completed under VCP:** As of October 2011, 61 sites completed the program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- The Hazardous Waste Remedial (HWR) Fund may be used for administration, site investigation, emergency response, removals, remedial actions, operations and maintenance, Comprehensive Environmental Response Compensation and Liability Act (CERCLA) match, studies and design, and grants to local governments. Seventy-five percent of the Fund must be used for remediation at non-CERCLA sites and for CERCLA cost share.
- Iowa's CERCLA 128(a) Response Program funding focuses on small and rural communities in the state. Funds can be used for Phase I ("due diligence") and Phase II environmental site assessments and small-scale cleanups at brownfields, with Section 128(a) matching funds available up to \$10,000.

### Incentives

A variety of tax credits and resources are available through the Iowa Economic Development Authority (IEDA) to assist with brownfields reuse projects, including the Iowa Brownfield Tax Credit program, wherein investments in the purchase, assessment, cleanup or renovation of brownfields can receive a 24percent tax credit of up to \$500,000 per project.

### Liability Relief Provisions

Program offers No Further Action (NFA) certification that is transferable to a new owner, through implementation of the Uniform Environmental Covenants Act (UECA), as a part of the LRP site enrollment and completion.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

- State uses statewide, background and site-specific standards. Site-specific standards are risk-based.
- Cleanup decisions are made on a site-by-site basis. State regulations do provide cleanup goals for ground water and surface water. State cleanups may use promulgated Ground Water Action Levels based on lifetime health advisories, negligible risk levels, and Maximum Contamination Levels (Admin. Code §567.133), but these are not usually used for hazardous site cleanups. Risk assessment is used to determine applicable cleanup levels if ground water contamination exceeds action levels. There is no established risk range set out in state policy. Under the voluntary program, detailed regulations are being developed to set out cleanup levels. Such cleanups will use risk assessment, background levels, ground water standards, and soil standards per state law. <http://www.iowabrownfields.com>

### **Contaminants Covered**

Any contaminant that has appropriate toxicity information available, and is not being addressed under separate authority, is eligible.

### **Institutional Controls (IC)**

Statutorily based environmental protection easement is required for use with non-residential standards. It may be possible to move the point of compliance with standards outside of area with an IC or appeal to a less restrictive standard with an IC. Use of an IC may not be allowed to address free product or “gross contamination.”

The following Web address is a direct link to the state’s public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<https://programs.iowadnr.gov/contaminatedsites/pages/search.aspx>

## **PROGRAM HIGHLIGHTS**

The Department of Natural Resources (DNR) developed an innovative and valuable database of historic aerial photos of the entire state, designed to assist potential purchasers, developers and others interested in past site activities and the environmental history of properties. Historic aerial photos are a valuable key to understanding what potential environmental conditions exist at a property. Beginning in 2004, DNR used its Section 128(a) Response Program funding to acquire copies of aerial photos from known sources including accessing scattered collections in state and federal archives. DNR then converted the photos into electronic images, rectifying the electronic images for accurate inclusion in geographic information systems (GIS), and loading the converted electronic photomaps into an easy-to-use, Web-based, publicly accessible GIS. DNR completed the photo conversion and integration of more than 20,000 historic prints, creating a complete mosaic of GIS images of the State of Iowa, with coverage from 1938 through today. The historic aerial photo database is an integral part of environmental due diligence research in Iowa and has notably improved the public’s ability to find and access records of value for environmental assessment and cleanup decision making, particularly in small, rural and environmental justice communities.

## **OTHER LAND PROGRAMS**

### **Underground Storage Tanks (UST) Program**

<http://www.iowadnr.gov/InsideDNR/RegulatoryLand/UndergroundStorageTanks.aspx>

## Voluntary Cleanup and Property Redevelopment Program (VCPRP) Brownfields Targeted Assessment Program Environmental Use Control Program

Kansas Department of Health and Environment (KDHE)  
Bureau of Environmental Remediation - Remedial Section  
1000 SW Jackson, Suite 410  
Topeka, KS 66612-1367  
<http://www.kdheks.gov/remedial/index.html>

Contact(s): Rick Bean  
Chief, Remedial Section  
[rbean@kdheks.gov](mailto:rbean@kdheks.gov)  
785-296-1675

Deanna Ross  
Unit Leader, Voluntary Cleanup Unit  
[dross@kdheks.gov](mailto:dross@kdheks.gov)  
785-296-8064

Doug Doubek  
State Response & Property Redevelopment Unit  
Brownfields Program  
[ddoubek@kdheks.gov](mailto:ddoubek@kdheks.gov)  
785-291-3246

### Program Overview

- Voluntary Cleanup and Property Redevelopment Program (VCPRP)
- Cost to Enter the VCPRP Program: \$200 plus oversight fees
- MOA with EPA Region 7 (March 2001)
- Liability Relief Provisions
- Brownfields Program
- Environmental Use Control Program

### PROGRAM

Under the Voluntary Cleanup and Property Redevelopment Program (VCPRP), developers and buyers who perform successful cleanups of contaminated properties that are within established criteria will be granted a "No Further Action" determination by the Department, satisfying the regulated community's need for protection from potential future liabilities. Adjacent property owners who did not contribute to the contamination could also receive protection from the Department through such determinations. The VCPRP works in conjunction with the State Brownfields Program and the Environmental Use Control Program.

<http://www.kdheks.gov/remedial/vcp/index.html> and <http://www.kdheks.gov/brownfields/index.html>

- **Funding Source(s) for the Program:** Oversight fees and federal grants.
- **Cost to enter program or fees for service:** VCPRP applications must be submitted with \$200 nonrefundable application fee; initial deposit, not to exceed \$5,000 is required to cover Kansas Department of Health and Environment's (KDHE) oversight costs including cost of labor associated with review of documents, studies and test results, collection of split samples, laboratory analysis, and other costs. There are also costs to participate in the Environmental Use Control Program depending on the category of the site.
- **Sites Enrolled in VCP:** As of January 2012, 373 properties were active in either investigation or cleanup.
- **Sites Completed under VCP:** As of January 2012, the VCPRP issued 224 No Further Action letters and 2,431 acres had been remediated.

### FINANCIAL ELEMENTS

#### Assessment and Cleanup Funding

- Brownfields Targeted Assessment Program: [http://www.kdheks.gov/brownfields/targeted\\_assess\\_prog.html](http://www.kdheks.gov/brownfields/targeted_assess_prog.html)
- Kansas Brownfields Cleanup Assistance Grant
- Kansas Agricultural Remediation Fund was created in July 2000 to assist in the investigation and remediation of qualifying properties with agricultural-related contaminants. The program provides direct reimbursement up to \$200,000, and low-interest loans up to \$300,000.

### **Liability Relief Provisions**

Under KSA 65-34,169 and KAR 28-71-10, stakeholders performing cleanup of contaminated properties that meet the criteria in the law (low to medium priority sites with minimal risk) can receive a No Further Action determination from KDHE to provide some protection from potential liabilities. Adjacent property owners who did not contribute to the contamination may also receive protection from KDHE through such determinations.

### **PROGRAM ELEMENTS**

#### **Methods/Standards/Controls**

Environmental Use Controls Program (same as institutional controls).

<http://www.kdheks.gov/remedial/vcp/index.html>

#### **Contaminants Covered**

All contaminants and pollutants covered including lead, asbestos and polychlorinated biphenyls (PCBs).

<http://www.kdheks.gov/remedial/vcp/index.html>.

#### **Institutional Controls (IC)**

Use environmental use controls.

- **IC Tracking:** All ICs are tracked and a part of a computerized database for public viewing.
- **IC Oversight:** All ICs are enforceable by KDHE pursuant to the statute.
- **IC Monitoring:** All ICs are inspected on a regular basis to ensure compliance.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

[http://www.kdheks.gov/remedial/isl\\_disclaimer.html](http://www.kdheks.gov/remedial/isl_disclaimer.html)

### **PROGRAM HIGHLIGHTS**

KDHE is using its Brownfields Program to assist the City of Wichita expand its citywide network of bicycling/walking trails. One segment of trail, the Redbud Trail, was recently completed along 2.5 miles of rail-banked railway corridor. KDHE used Section 128(a) Response Program funding to provide oversight for the Phase I and Phase II assessments that identified heavy metals and polynuclear aromatic hydrocarbons (PAHs) above action levels in isolated spots along the trail. The project was then enrolled in KDHE's Voluntary Cleanup and Property Redevelopment Program and the cleanup plan included capping the contaminated soil under the concrete path and clean fill, and establishing an Environmental Use Control to prevent disturbance. The Redbud Trail was opened to the public in May 2011; future plans call to extend the trail another 8.5 miles. The city is funding the project with KDHE's Brownfields Cleanup and Revolving Loan Fund sub-grant and a \$2.3 million federal transportation enhancement grant.

### **OTHER LAND PROGRAMS**

#### **State Cooperative Program**

<http://www.kdheks.gov/remedial/scu/index.html>

#### **Storage Tanks Program**

<http://www.kdheks.gov/tanks/index.html>

#### **Drycleaning Program**

<http://www.kdheks.gov/ars/index.html#drycl>

#### **Superfund Program**

<http://www.kdheks.gov/ars/superfund.html>

## Brownfields / Voluntary Cleanup Program (BVCP)

Missouri Department of Natural Resources (MoDNR)  
Hazardous Waste Program  
P.O. Box 176  
Jefferson City, MO 65102-0176  
[www.MissouriBrownfields.com](http://www.MissouriBrownfields.com)

Contact(s): Jim Belcher  
[jim.belcher@dnr.mo.gov](mailto:jim.belcher@dnr.mo.gov)  
573-526-8913

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$200 plus oversight fees
- MOA with EPA Region 7 (September 1996)
- Liability Relief Provisions
- Tax Incentives

## PROGRAM

First established by the state legislature in 1994, Missouri's Brownfields/Voluntary Cleanup Program (BVCP) is administered by the Hazardous Waste Program's Brownfields/Voluntary Cleanup Section to provide state oversight for voluntary cleanups of properties contaminated with hazardous substances. [www.MissouriBrownfields.com](http://www.MissouriBrownfields.com)

- **Funding Source(s) for the Program:** Federal grants and oversight fees.
- **Cost to enter program or fees for service:** The application fee is \$200 and up to \$5,000 initial deposit is made toward the costs. Oversight costs are charged on an hourly basis. After completion or withdrawal, any remaining deposit balance is refunded. The average cost per site is \$3,000.
- **Sites Enrolled in VCP:** As of June 30, 2012, 1,145 sites have been enrolled since program establishment in 1994. Approximately 50 applications are processed annually and there are typically 275-300 active projects.
- **Sites Completed under VCP:** As of June 30, 2012, 653 Certificates of Completion (COC) have been issued.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- Missouri's Drycleaning Environmental Response Trust (DERT) Fund provides for the investigation, assessment and cleanup of dry cleaning facility sites. Only chlorinated solvent contamination is to be addressed. Eligible sites will have eligible costs reimbursed after a \$25,000 deductible up to \$1,000,000 per site. The DERT fund is managed by the Missouri Department of Natural Resources (MoDNR) as part of the BVCP Section.
- Missouri's Petroleum Storage Tank Insurance Fund (PSTIF) covers insured and other eligible petroleum sites with either underground or above ground storage tanks. The fund will reimburse cleanup costs up to \$1,000,000 per incident after a \$10,000 deductible.
- The Environmental Improvement and Energy Resources Authority (EI ERA) may provide loans and sub-grants to support cleanup activities for sites contaminated with petroleum, hazardous and controlled substances, as well as mine-scarred lands. Any public (except the state) or private entity may be eligible for loans to pay for the cleanup of brownfield properties. Sub-grants are limited to political subdivisions and nonprofit corporations.

### Incentives

The Missouri Department of Economic Development (DED) may issue tax credits for up to 100percent of the cost of remediating a brownfield property. The purpose of the Brownfield Redevelopment Program is to provide financial incentives for the redevelopment of commercial/industrial sites that are contaminated with hazardous substances and have been abandoned or underutilized for at least three years. The tax credit may also include up to 100percent of the costs of demolition that are not directly part of the remediation activities. The demolition may occur on an adjacent property if the project is located in a municipality which has a population less than 20,000 and other conditions are met. The amount of the credit available for demolition not associated with remediation cannot exceed the total amount of credits approved for remediation, including demolition required for remediation.

<http://www.ded.mo.gov/BCSpercent20Programs/BCSProgramDetails.aspx?BCSProgramID=3>

### Liability Relief Provisions

A COC is issued by the state. Any interested party can apply with a property owner's permission. Includes risk-based cleanup criteria, tied to future land use, and institutional and/or engineering control provisions.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

The Hazardous Waste Program administers two risk-based corrective action processes.

- The Risk-Based Corrective Action Process for Petroleum Storage Tanks is applicable to releases from regulated petroleum storage tanks.
- The Missouri Risk-Based Corrective Action (MRBCA) process applies to releases from sources other than regulated petroleum storage tanks and is available at the following link. <http://www.dnr.mo.gov/env/hwp/mrbca/mrbca.htm>

### Contaminants Covered

The BVCP addresses petroleum, asbestos, lead-based paint, Comprehensive Environmental Response Compensation and Liability Act (CERCLA) hazardous substances, polychlorinated biphenyls (PCBs), and controlled substances contamination.

### Institutional Controls (IC)

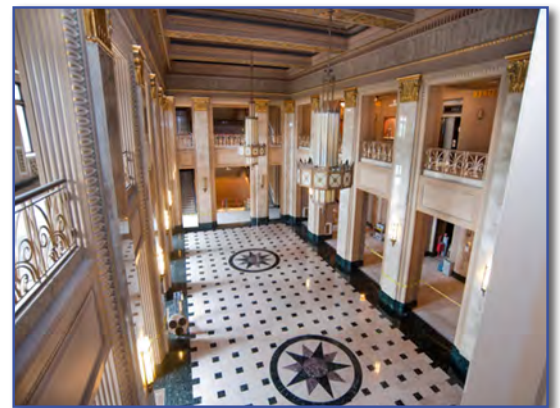
- The BVCP recognizes that not all properties can be cleaned up to unrestricted use standards, as desirable as that would be. There are projects where the intended end use does not require the cleanup level to meet unrestricted use and the economics of doing so would prohibit the cleanup and redevelopment. Under the MRBCA guidance, the site remediation can be complimented by institutional and/or engineering controls. The most used institutional control is a restrictive covenant that is associated with and considered part of the property legal description. The covenant addresses restrictions of property usage. The covenant also documents the engineering controls in place and the cautions associated with working near or on the controlling feature. Covenants are developed and filed in the property chain-of-title in accordance with the Missouri Environmental Covenants Act.
- MoDNR is developing a long-term-stewardship system (LTS) to document and track the continued enforcement of ICs. The BVCP is providing the leadership for the LTS program, but it will ultimately address all remediated sites in Missouri regardless of which program provides oversight.
  - **IC Tracking:** Sites with LTS controls are listed on the BVCP website.
  - **IC Oversight and Monitoring:** Annual inspection visits by a BVCP project manager are required. LTS site owners are required to notify the BVCP prior to transferring the property to a new owner.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.dnr.mo.gov/env/hwp/docs/sitestatuslist.xls>

## PROGRAM HIGHLIGHTS

The Peabody Opera House re-opened in October 2011 after a \$79 million renovation. This 68,180-square foot Art Deco building was built in 1934 as a municipal opera house – a landmark in St. Louis. The last concert was hosted in 1991 and the building became a dark and depressing eyesore. While no Recognized Environmental Concerns were identified in the Phase I Report, asbestos-containing material (ACM) and lead-based paint (LBP) were found throughout the building. The site was enrolled in the Section 128(a) Response Program funded Missouri Brownfields/Voluntary Cleanup Program for oversight of the remediation process. During the redevelopment, ACM and LBP were either removed and disposed of, or encapsulated – with the exception of some decorative features containing LBP on the walls and ceilings of the building. These decorative features were preserved in the unlikely situation that the structure is ever used for residential purposes. The Peabody Opera House now hosts many events—a mix of concerts, comedy, touring Broadway shows, and family events—in the main 3,500-seat theatre.



The Grand Lobby at the Peabody Opera House

## OTHER LAND PROGRAMS

### Petroleum Storage Tanks Program

<http://www.dnr.mo.gov/env/hwp/tanks/tanks.htm>

### Superfund Program

<http://www.dnr.mo.gov/env/hwp/sfund/spf.htm>

## Voluntary Cleanup Program (VCP)

Nebraska Department of Environmental Quality (NDEQ)  
1200 N Street, Suite 400  
P.O. Box 98922  
Lincoln, NE68509  
<http://www.deq.state.ne.us/>

Contact(s): Mike Felix  
Section Supervisor, Remediation Section  
[mike.felix@nebraska.gov](mailto:mike.felix@nebraska.gov)  
402-471-3388

Tom Buell  
Unit Supervisor, Superfund/VCP Unit  
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402-471-3388

Charlene Sundermann  
VCP/Brownfields Coordinator  
[charlene.sundermann@nebraska.gov](mailto:charlene.sundermann@nebraska.gov)  
402-471-3388

### Program Overview

- Cost to Enter the Program: \$5,000
- MOA with EPA Region 7 (November 2006)
- No Further Action Determinations

## PROGRAM

The Nebraska Voluntary Cleanup Program (VCP) was established by the Remedial Action Plan Monitoring Act (RAPMA) in 1995, as amended in 2004 and 2008. The VCP is a fee-based cleanup program for property owners, potential property buyers, facility owners, local governments, and other parties interested in voluntarily cleaning up contaminated properties under state oversight. The VCP utilizes a streamlined, results-based approach to environmental cleanup to facilitate the redevelopment and reuse of brownfield sites and provide an alternative approach to more traditional federal cleanup programs such as Superfund or the Resource Conservation and Recovery Act (RCRA) programs.

<http://www.deq.state.ne.us/>

- **Funding Source(s) for the Program:** Federal grants and application fee and initial deposit.
- **Cost to enter program or fees for service:** Application fee of \$2,000 and initial deposit of \$3,000.
- **Sites Enrolled in VCP:** As of August 2012, 15 sites are active in the VCP.
- **Sites Completed under VCP:** As of August 2012, 14 sites have successfully completed cleanup requirements under the VCP and have received No Further Action (NFA) letters from Nebraska Department of Environmental Quality (NDEQ).

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

NDEQ's Section 128(a) Response Program funding helps communities receive free environmental site assessments.

### Liability Relief Provisions

None

## PROGRAM ELEMENTS

### Methods/Standards/Controls

The VCP developed a comprehensive guidance document that outlines the overall cleanup process and information requirements for the preparation and submittal of a remedial action plan. Full characterization of the nature and extent of contamination must be completed before applying to the program. The remedial action plan must consist of an investigation report which presents a conceptual site model based on a thorough investigation, and a remedial action work plan which outlines the plan for cleaning up the site. The comprehensive guidance document also includes a three-tiered remediation goals protocol that considers human health risks, ground water use, and future land use. The VCP Guidance is currently being revised to include evaluation of the indoor air pathway due to vapor intrusion from soil and groundwater sources. The guidance document includes the development of remediation goals for soil gas and groundwater that would be protective of indoor air quality.



If at the completion of all cleanup activities, the applicant has remitted all applicable fees, has met the provisions and the objectives agreed to with NDEQ, and has complied with all state and federal environmental standards and substantive requirements, NDEQ may issue a letter stating that no further action need be taken at the site related to the contamination for which the remedial action was conducted.

### **Contaminants Covered**

Hazardous substance, pollutant or contaminant, petroleum, asbestos, lead-based paints, and polychlorinated biphenyls (PCBs) are all covered.

### **Institutional Controls (IC)**

ICs in accordance with the Nebraska Uniform Environmental Covenants Act are recommended.

- **IC Tracking:** ICs are tracked as part of the Public Record required by the Section 128(a) Response Program.
- **IC Oversight:** NDEQ reviews and approves remedial action plans and performs oversight of implementation of the remedial action, including the implementation of ICs.
- **IC Monitoring:** NDEQ performs periodic monitoring of ongoing long-term operation, maintenance and monitoring activities, including monitoring of ICs.

Current information on the Public Record and IC tracking system can be found at: <http://www.deq.state.ne.us/SuperFun.nsf/Pages/VCPPR>

The VCP is partnering with the Nebraska Department of Natural Resources (NDNR) to map institutional control areas in the state. This will aid water well drillers with critical information to prevent installation of domestic water wells in contaminated areas. The current information is available on the NDNR's website at: <http://maps.dnr.ne.gov/Wells>

## **PROGRAM HIGHLIGHTS**

This past year NDEQ worked with the U.S. Department of Agriculture (USDA) to enroll multiple former surplus grain storage sites into the VCP. NDEQ will use Section 128(a) Response Program funding to provide oversight to all actions at these sites. NDEQ will also ensure compliance with applicable state and federal laws and regulations pertaining to site-related work. The agreement between USDA and NDEQ has an initial list of sites within Nebraska that will be addressed and investigated. This list may be revised on an annual basis.

## **OTHER LAND PROGRAMS**

### **Petroleum Remediation Program**

<http://www.deq.state.ne.us/>

### **Superfund Program**

<http://www.deq.state.ne.us/SuperFun.nsf/>

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# EPA REGION 8

## Brownfields and Voluntary Cleanup and Redevelopment Program (VCP)

Colorado Department of Public Health and Environment (CDPHE)  
 Hazardous Materials and Waste Management Division  
 4300 Cherry Creek Drive South  
 Denver, CO 80246-1530  
<http://www.cdphe.state.co.us/HM/index.htm>

Contact(s): Dan Scheppers  
 Remediation Programs Manager  
[daniel.scheppers@state.co.us](mailto:daniel.scheppers@state.co.us)  
 303-692-3398

Fonda Apostolopoulos  
 Voluntary Cleanup and Redevelopment Program  
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 303-692-3411

Doug Jamison  
 Colorado Brownfields/VCP Unit Leader  
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Barbara Nabors  
 State Incentives for Redevelopment of Contaminated Land in Colorado  
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 303-692-3393

### Program Overview

- Brownfields Program
- Brownfields Revolving Loan Fund
- Cost to Enter the Program: \$2,000 plus \$85/hour
- MOA with EPA Region 8 (April 1996)
- Liability Relief Provisions
- Colorado Brownfields Foundation

## PROGRAM

### Voluntary Cleanup and Redevelopment Program

The Colorado Department of Public Health and Environment (CDPHE) established the Voluntary Cleanup and Redevelopment Program (VCP) in 1994 to provide public and private property owners with the resources to facilitate cleanups as well as assurances against regulatory enforcement. <http://www.colorado.gov/cs/Satellite/CDPHE-HM/CBON/1251615547629>

- **Funding Source(s) for the Program:** VCP fees (80percent) and federal grants (20percent).
- **Cost to enter program or fees for service:** Application fee is \$2,000. Hourly review fee is \$85.
- **Sites Enrolled in VCP:** As of July 2012, there have been approximately 850 applications. Approximately 50 applications are processed each year.
- **Sites Completed under VCP:** 820.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- **Colorado Brownfields Revolving Loan Fund** – Encourages the cleanup of unused or underused contaminated properties. The Fund offers financing with reduced interest rates, flexible loan terms, and flexibility in acceptable forms of collateral. <http://www.colorado.gov/cs/Satellite/CDPHE-HM/CBON/1251615547629>
- **Targeted Brownfields Assessments** – The state performs targeted site assessments to characterize the nature and extent of site contamination. This characterization is at no cost to the property owner, and provides assistance in quantifying the need for and potential cost of cleanup. Sites are eligible if they are not on the National Priorities List (NPL) or under enforcement or other action by a government agency. For a private party to be eligible there must be a clear public benefit. Determinations on which sites will be assessed are done on a priority basis.

### Incentives

The Colorado Brownfields Revolving Loan fund can provide sub-grants to local governments to pay for cleanup of contaminated properties and facilitate redevelopment of those properties.

### Liability Relief Provisions

Colorado statute provides that CDPHE will actively pursue a determination by EPA that a property in the VCP not be addressed under the federal act and no further federal action will be taken with respect to the property at least until the voluntary cleanup plan is completely implemented.

Colorado statute provides that voluntary cleanup plans are not enforceable against a property owner (unless the owner fails to implement the plan after initiating a voluntary cleanup). In addition, information provided by a property owner to support a voluntary cleanup plan or no action petition does not give CDPHE an independent basis to seek penalties from the property owner pursuant to state environmental statutes or regulations.

### **Brownfields Redevelopment Authorities (or similar)**

The Colorado Brownfields Foundation (CBF) is a 501(c)(3) Colorado nonprofit corporation that provides technical assistance for financing, redeveloping and reusing brownfields. CBF is an approved Colorado Enterprise Zone Contribution Project.

<http://www.coloradobrownfieldsfoundation.org/>

### **PROGRAM ELEMENTS**

#### **Methods/Standards/Controls**

No formal Risk-Based Corrective Action or comparable/informal process is in place; VCP applicants choose from various cleanup standards or perform risk assessments. State allows risk-based closures.

#### **Contaminants Covered**

Hazardous substances and solid wastes including petroleum contaminants, asbestos, lead paint, and methamphetamine derived contaminants are all covered.

#### **Institutional Controls (IC)**

While Colorado does not have enforcement authority under its state Superfund program, the most recent amendments to the Hazardous Waste Sites Act authorize the use of environmental covenants that run with the land (Colorado Revised Statutes (CRS) §§ Sec. 25–15–317 through 327). CDPHE may use environmental covenants under the VCP if the owner requests it, however it is not compulsory. If the property owner fails to comply with an environmental covenant, CDPHE may issue an order requiring compliance and may request that the Attorney General bring a suit to enforce the terms of the covenant.

- **IC Tracking:** Colorado is required to maintain an inventory of all sites and facilities at which hazardous substances have been disposed of in the state under the 2001 amendments to the Hazardous Waste Sites Act. As of July 1, 2001 the state is tracking ICs at state cleanup program sites, Resource Conservation and Recovery Act (RCRA) cleanup sites, Superfund sites, federal facility sites, and VCP sites through the database. The primary users of the system are state officials, with local governments as secondary users. Colorado is required to create and maintain a registry of all environmental covenants, including any modifications or terminations of the covenants under the 2001 amendments to the Hazardous Waste Sites Act. The database is available to the public at:

<http://www.colorado.gov/cs/Satellite/CDPHE-HM/CBON/1251615547629>

- **IC Oversight and Monitoring:** Colorado's long-term stewardship provisions include monitoring, ICs and enforcement.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. These links also provide additional information regarding contaminated sites in the state.

<http://www.colorado.gov/cs/Satellite/CDPHE-HM/CBON/1251615547629>

### **PROGRAM HIGHLIGHTS**

The Dahlia Square Shopping Center was built in early 1950 on the site of the former Ferry Brickyard. The shopping center quickly became a focal point for local business and commerce, functioning as a community hub. Over the decades, the once vibrant shopping center slowly began to deteriorate as the shopping habits of local citizens shifted. By the 1990s, Dahlia Square was less than 15percent occupied and had fallen into disrepair. The Denver Urban Renewal Authority (DURA) and the City and County of Denver created the Northeast Park Hill Urban Renewal area in 2001 to help redevelop and reinvigorate the area. During the assessment of the property's redevelopment potential, significant soil contamination was found that needed to be addressed. Park Hill Community, Inc. received a \$200,000 Brownfields Cleanup grant from EPA in 2005 to address the contamination found at the Dahlia Square property. In 2005, EPA also used \$78,000 of Targeted Brownfields Assessment funding to complete a Phase II Environmental Assessment for the site. The grant was part of a wide variety of funding used for property remediation, including grants and loans from federal and other sources, totaling more than \$7 million. Remediation of the property's soil resulted in the excavation of 40,000 cubic yards of landfill materials in abandoned mine pits left from its previous use as a brickyard. This material was disposed of at a local landfill. Additionally, three 3,000-4,000 gallon underground storage tanks (UST) and one 500-gallon UST were removed from the property. Cleanup was completed in June 2006 under the VCP, paving the way for redevelopment. A private developer purchased the property, and in 2009 opened a new 12,000 square-foot Park Hill Family Medical Clinic. The developer also has plans to build more than 100 new housing units, but these plans are on hold due to the slow housing market. However, a second developer agreed to build a 128-unit affordable housing complex for seniors, with assistance from the Colorado Housing and Finance Authority (CHFA). This development has been awarded a 9percent tax credit by CHFA and has resulted in an additional private investment of over \$12 million. The Dahlia Square Senior Apartment complex celebrated its grand opening in October 2011, and the developer will continue phased construction in 2012-13.



The Dahlia Square Senior Apartment Complex

### **OTHER LAND PROGRAMS**

#### **Superfund Program**

<http://www.colorado.gov/cs/Satellite/CDPHE-HM/CBON/1251615547672>

## Montana Department of Environmental Quality (DEQ)

Brownfields Remediation & Permitting and Compliance

Divisions

P.O. Box 200901

Helena, MT 59620-0901

<http://deq.mt.gov/Rem/default.mcp>

<http://deq.mt.gov/pcd/default.mcp>

Contact(s): Jason Seyler

Hazardous Substance Brownfields

[jseyler@mt.gov](mailto:jseyler@mt.gov)

406-841-5071

Wally Jemmings

Petroleum Brownfields

[wjemmings@mt.gov](mailto:wjemmings@mt.gov)

406-841-5053

Becky Holmes

Hazardous Waste Brownfields

[rholmes@mt.gov](mailto:rholmes@mt.gov)

406-444-2876

### Program Overview

- Brownfields Programs
- Cost to enter program: None; reimbursement of all administration costs
- Voluntary Cleanup Program Elements
- Program Highlights

## PROGRAM

The Montana Department of Environmental Quality's (DEQ) Brownfields programs are separated into the following three sections: Site Response, Leaking Underground Storage Tank (LUST)/Brownfields, and Hazardous Waste. Additional information regarding each program can be found at: <http://deq.mt.gov/Brownfields/MTBrownfieldsPrograms.mcp>.

### Site Response Section

[DEQ's Site Response Section \(SRS\)](#) administers the Montana State Superfund and [Voluntary Cleanup Programs \(VCP\)](#). The SRS is part of the Hazardous Waste Site Cleanup Bureau in DEQ's Remediation Division. SRS personnel work on both State Superfund and Voluntary Cleanup sites. SRS uses Brownfields funding to enhance its state Superfund and VCPs.

### LUST/Brownfields Section

[DEQ's Leaking Underground Storage Tank \(LUST\)/Brownfields Section \(LBS\)](#) administers a portion of the state's Petroleum Cleanup Program through the authority of the Montana Underground Storage Tank Act. LBS is part of the Hazardous Waste Site Cleanup Bureau in DEQ's Remediation Division. Montana's Underground Storage Tank Act requires compliance with the Montana Underground Storage Tank Rules that include the requirements for release reporting, investigation, confirmation, abatement measures, and corrective action.

### Hazardous Waste Section

[DEQ's Hazardous Waste Section \(HWS\)](#) administers the State's Hazardous Waste Program. The HWS is part of the Waste and Underground Tank Management Bureau in DEQ's Permitting and Compliance Division. The Hazardous Waste Act requires compliance with hazardous waste regulations for generators of hazardous waste and permitted treatment, storage and disposal facilities. The HWS also oversees remediation when releases of hazardous waste or hazardous constituents occur at hazardous waste generator sites, as well as permitted facilities.

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** There are no costs to participate in the Brownfields Program. All applicants entering into the VCP must agree to reimburse the state for all administrative costs. Cost recovery is based on actual cost; there is no standard fee.
- **Sites Completed under VCP:** As of August 2012, 31 sites have been "closed" under the VCP process by DEQ.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- Information on available grants can be found at: <http://deq.mt.gov/Brownfields/Grants.mcp>
- Montana Assessment grants are discussed at: <http://deq.mt.gov/Brownfields/TargetedBA.mcp>
- Loans available through state Board of Investments program may apply to brownfields.

- Assessment and Cleanup funding is also available through the Department of Natural Resource and Development's Resource and Development Grants. Additional information can be found at: <http://dnrc.mt.gov/cardd/ResourceDevelopment/rdg/ProjectPlanningGrants.asp>
- Controlled Allocation of Liability Act and orphan share fund offers reimbursement for expenditures beyond applicant's responsibility from an orphan share fund; level depends on available funding.

### **Liability Relief Provisions**

Under KSA 65-34,169 and KAR 28-71-10, stakeholders performing cleanup of contaminated properties that meet the criteria in the law (low to medium priority sites with minimal risk) can receive a No Further Action determination from KDHE to provide some protection from potential liabilities. Adjacent property owners who did not contribute to the contamination may also receive protection from KDHE through such determinations.

### **Incentives**

Participation in the VCP includes enforcement stays, liability protection and a streamlined process with short review times. Additional information on the VCP can be found at: <http://deq.mt.gov/StateSuperfund/vcra.mcpx>

### **Liability Relief Provisions**

Program offers closure letters; program can be used by any interested person with the property owner's permission to address all or a portion of a site.

## **PROGRAM ELEMENTS**

### **Methods/Standards/Controls**

Cleanup levels for the VCP may be based upon proposed use, which includes the potential of implementing institutional controls.

### **Contaminants Covered**

All contaminants covered by the VCP, but must represent a release or threat of release to the environment. Under the Brownfields Program, threats to public health and the environment can be addressed.

### **Institutional Controls (IC)**

For the VCP, ICs allowed as appropriate.

## **PROGRAM HIGHLIGHTS**

The Montana DEQ used Section 128(a) Response Program funding to update Montana's Voluntary Cleanup and Redevelopment Guidance Document. The guidance document was prepared to assist potential applicants in meeting the requirements outlined in Voluntary Cleanup and Redevelopment Act. The guidance is posted on the DEQ website at: <http://deq.mt.gov/StateSuperfund/vcraguide.mcpx>.

## Brownfields Program

North Dakota Department of Health  
Division of Waste Management  
918 East Divide Avenue, 3rd Floor  
Bismarck, ND 58501-1947  
<http://www.ndhealth.gov/WM/>

Contact(s): Curtis Erickson  
[cerickso@nd.gov](mailto:cerickso@nd.gov)  
701-328-5166

Derek Hall  
[ahall@nd.gov](mailto:ahall@nd.gov)  
701-328-5166

### Program Overview

- Brownfields Programs
- Cost to enter program: \$0
- Liability Relief Provisions

## PROGRAM

The Division of Waste Management Brownfields Program is application based, and cities, counties or local development groups may apply for assistance. The concept of the Brownfields Program is to take contaminated or potentially contaminated, underdeveloped or unproductive property and convert it into productive real estate. <http://www.ndhealth.gov/WM/Brownfields/>

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** At this time, the state does not charge any fees.
- **Sites Enrolled in Program:** As of July 2012, 6 sites were active in the program during the current fiscal year.
- **Sites Completed under Program:** As of July 2012, 34 sites have completed full or partial cleanups, and 51 sites have completed Phase I or Phase II assessments through the program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

The state is using Section 128(a) Response Program grant funds to conduct site assessments at petroleum sites and contamination removal activities at sites requiring contamination removal.

<http://www.ndhealth.gov/WM/Brownfields/ApplicationGuidelineForTargetedBrownfieldsAssessmentAssistanceInNorthDakota.pdf>

### Liability Relief Provisions

The Department offers closure letters and No Further Action (NFA) letters. The Department may also give site specific responsibility exemptions or regulatory assurances provided certain activities are conducted.

<http://www.ndhealth.gov/wm/Publications/QualificationForResponsibilityExemptionRegulatoryAssurance.pdf>

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Cleanup standards or goals are site specific.

### Contaminants Covered

The program does not restrict on basis of contaminants.

### Institutional Controls (IC)

Various ICs allowed, based on individual sites, future use, location, etc.

<http://www.ndhealth.gov/wm/EnvironmentalCovenantsInstitutionalControls.htm>

- **IC Tracking:** The Department, by law, is required to maintain a record of all ICs established.
- **IC Oversight:** The Department conducts oversight activities at all voluntary cleanup sites and has the authority to access any site.
- **IC Monitoring:** The Department has the authority to conduct monitoring at any site.
- The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.  
<http://www.ndhealth.gov/WM/Brownfields/BrownfieldsSitesInNorthDakota.pdf>



## **PROGRAM HIGHLIGHTS**

The North Dakota Brownfields Program used Section 128(a) Response Program funding to assist the Cavalier County Job Development Association (JDA) in conducting a Phase I assessment of the former U.S. Army Stanley R. Mickelsen Safeguard Complex (SRMSC) comprised of five non-contiguous land parcels totaling 601 acres and is located near Nekoma. The Cavalier County JDA is looking to acquire this property to have space for and encourage economic development in the area. The U.S. Army closed the missile complex in 1975 and it is currently under caretaker status of the U.S. General Services Administration.

## **OTHER LAND PROGRAMS**

### **Underground Storage Tanks (UST) Program**

<http://www.ndhealth.gov/WM/UndergroundStorageTankProgram/>

## Brownfields Revitalization and Economic Development Program

South Dakota Department of Environment and Natural Resource (DENR)  
Ground Water Quality Program  
Joe Foss Building  
523 East Capitol Avenue  
Pierre, SD 57501-3181  
<http://denr.sd.gov>

Contact(s): Kim McIntosh  
Brownfields Coordinator  
[kim.Mcintosh@state.sd.us](mailto:kim.Mcintosh@state.sd.us)  
605-773-3296

### Program Overview

- Brownfields Programs
- Cost to enter program: \$0
- Liability Relief Provisions

## PROGRAM

The Ground Water Quality Program created the Brownfields Program to assist with the redevelopment of brownfields in South Dakota. By investigating and cleaning up a brownfield property and taking care of the site's possible health or environmental risks, communities can reuse local land to produce jobs, increase the tax base, or add other benefits such as a park or residential area.

<http://denr.sd.gov/des/gw/Brownfields/Brownfields.aspx>

- **Funding Source(s) for the Program:** Federal grants, state general funds and fines and penalties collected by the agency.
- **Cost to enter program or fees for service:** The state does not charge parties to enter into the Brownfields Program or have fees for staff services.
- **Sites Enrolled in VCP:** As of July 2012, the program has assisted over 12,000 sites through the voluntary cleanup program (VCP). Each year approximately 250 new sites are entered into the VCP program.
- **Sites Completed under VCP:** As of July 2012, over 10,000 sites have received completion or closures letters through the state's program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

The state is using Section 128(a) Response Program grant funds to conduct assessment of a limited number of brownfields each year. These sites may include mine scarred lands, petroleum sites, and sites impacted by solvents, heavy metals or controlled substances. As of July 2012, funds have been used to perform assessment and cleanup activities on 43 brownfields.

### Liability Relief Provisions

Legislation (SDCL Chapter 74:05:12) was passed to establish additional liability provisions for sites designated as brownfields by the state.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

The state will use existing ground water and soil standards as well as site-specific risk based data. The state will also consider EPA Region 3 and EPA Region 5 Risk-Based Concentrations when determining the need for a cleanup action.

### Contaminants Covered

The state regulates hazardous substances, hazardous wastes, toxic substances, petroleum, pesticides, metals, and other substances considered regulated substances under South Dakota Codified Law (SDCL) Chapter 34A-12.

### Institutional Controls (IC)

The state allows the use of ICs on brownfields, spills or releases both in the assessment and remediation phase of the project. The state's database (<http://denr.sd.gov/des/gw/Spills/dbspillsearch.aspx>) contains information on each state rules, assessment and cleanup standards, and provides a mechanism to track long-term ICs.

- **IC Tracking:** ICs are recorded on deed notices and environmental covenants and are tracked by the Department of Environment and Natural Resources' (DENR) database.

- **IC Oversight:** The oversight is provided on all assessment and cleanup projects.
- **IC Monitoring:** South Dakota does not perform field monitoring of ICs unless a complaint is received, or a problem is identified.

The following Web address is a direct link to the state’s public database that maintains an inventory of regulated substance and brownfields, maps of sites by community, and/or information on ICs being used at a particular site. This link also provides additional detailed information regarding each contaminated site in the state. <http://denr.sd.gov/des/gw/groundprg.aspx>.

### PROGRAM HIGHLIGHTS

When Huron University closed its doors in 2005 there was a flurry of committee meetings, strategic planning sessions, and forecasting for what the facility could become. But with time dampening enthusiasm and no apparent forward progress, the facility moved to the back of everyone’s mind. The owner, an out-of-state real estate investment company, was unable to find a buyer for the facility and it slowly began to become rundown. In 2011, after exhausting all avenues to find resources to upgrade the existing campus, the City of Huron worked in conjunction with numerous private and nonprofit agencies to develop an aggressive plan to purchase the property and redevelop the site into “Central Park.” The redevelopment plan called for construction of a new full-featured city park with multiple playgrounds, picnic shelters, a new aquatic center, and renovation of the former “Campus Center” student union building to offer post-secondary education opportunities to the community, serve as a meeting venue for community events, and as new headquarters for the city’s parks department. To allow for this redevelopment, six major structures and a series of tunnels had to be demolished, and a number of underground fuel tanks also had to be removed. The State Department of Environment and Natural Resources used Section 128(a) Response Program funding to assist the city in assessing the buildings and site. In addition Section 128(a) funds were used to assist in the development of cleanup plans for the site. Through fund raising efforts, private business contributions, the New Markets Tax Credit program, and other local and federal resources, the city assembled a financing package and began construction of the \$12.8 million community facility in the fall of 2011. When this revitalization project is completed in May 2013 it will offer the citizens of Huron use of a new water park, picnic shelters, playground equipment, opportunities to take college and vocational classes, use of the community meeting rooms, expanded youth programming, and a picturesque walking trail that encompasses the site. Huron Mayor David McGirr noted that the redevelopment project would not have moved forward in a timely manner, or perhaps not all, without Section 128(a) assistance. “Addressing the significant environment problems of the redevelopment site was a major concern for our community leaders and Huron citizens as we explored the feasibility of this project,” said McGirr. “With the assistance of the Section 128(a) funding we were able to accurately assess the extent of asbestos, mold and petroleum contamination at the site on a very tight schedule to meet the requirements of our financing package,” said McGirr. “The DENR technical and financial assistance was invaluable in allowing us to determine the scope of the problem and establish a plan for remediation that put our community’s environment concerns at ease.”



Area Master Plan for Central Park in Huron

### OTHER LAND PROGRAMS

#### Storage Tanks Program

<http://denr.sd.gov/des/gw/tanks/TankSection.aspx>

#### Superfund Program

[http://denr.sd.gov/des/gw/Superfund/Super\\_Fund.aspx](http://denr.sd.gov/des/gw/Superfund/Super_Fund.aspx)

## Voluntary Cleanup Program / Brownfields

Utah Department of Environmental Quality (UDEQ)  
 Division of Environmental Response and Remediation (DERR)  
 195 North 1950 West, First Floor  
 Salt Lake City, UT 84116  
<http://www.environmentalresponse.utah.gov/>

Contact(s): Duane Mortensen  
 Superfund Branch Manager  
[dmortensen@utah.gov](mailto:dmortensen@utah.gov)  
 801-536-4100

Bill Rees  
 VCP/Brownfields Section Manager  
[Brees@utah.gov](mailto:Brees@utah.gov)  
 801-536-4167

### Program Overview

- VCP/Brownfields Program
- Cost to Enter VCP Program: Voluntary Cleanup Program application fee: \$2,500 and costs in excess of the fee are reimbursable
- Enforceable Written Assurance application fee: \$500 and costs in excess of the fee are reimbursable
- Liability Relief Provisions

## PROGRAM

The Utah State Legislature passed the Voluntary Release Cleanup Program statute in 1997. This legislation created the Voluntary Cleanup Program (VCP) under the Utah Department of Environmental Quality (UDEQ). The VCP is administered by the Division of Environmental Response and Remediation (DERR). The purpose of this program is to encourage the voluntary cleanup of sites where there has been a contaminant release threatening public health and the environment, thereby removing the stigma attached to these sites which blocks economic development. The voluntary cleanup of sites will hopefully clear the pathway for returning properties to beneficial use. UDEQ/DERR also provides assistance to communities and other stakeholders struggling with brownfields issues. An enforceable written assurance (EWA) is a tool to manage brownfields prior to and after purchase of property. <http://www.superfund.utah.gov/vcp.htm>

- **Funding Source(s) for the Program:** Federal grants (100percent).
- **Cost to enter program or fees for service:** A \$2,500 application fee and an environmental assessment are required at time of application. The fee is used to cover UDEQ/DERR costs for eligibility assessment and signing a voluntary cleanup agreement. Any monies remaining from the application fee are applied towards oversight. UDEQ/DERR and the applicant must enter into a voluntary cleanup agreement before UDEQ/DERR can review work plans and reports. The agreement provides for reimbursement of UDEQ/DERR oversight costs by the VCP applicant.
- **Sites Enrolled in VCP:** As of August 2012, 77 applications had been received by the program.
- **Sites Completed under VCP:** As of August 2012, 36 Certificates of Completion (COC) and 3 no further actions (NFA) were issued.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

Federal grants are available to assist with brownfields reuse projects. When funding is available, the state performs Targeted Brownfields Assessments (TBA) for eligible applicants.

### Liability Relief Provisions

The VCP offers a COC with limited liability relief for non-responsible parties, future owners and lenders. The Utah Hazardous Substance Mitigation Act was amended in 2005 to expressly allow the Executive Director to issue EWAs to bona fide prospective purchasers. This term is defined by the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and incorporated in the Hazardous Substances Mitigation Act. UDEQ will not bring an enforcement action under the Hazardous Substances Mitigation Act against the holder of an EWA, provided the holder continues to satisfy the ongoing obligations and reasonable steps associated with the written assurance. Since August 2012, UDEQ/DERR has received 65 EWA applications and issued 51 EWAs under the Brownfields Program.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

A VCP applicant has a choice of cleanup standards including background levels, generic risk-based levels, site-specific risk based levels not relying on ICs, site specific risk-based levels relying on ICs, and others based on consultation with UDEQ/DERR. A VCP applicant may perform a site-specific risk assessment.

## Contaminants Covered

The program does not restrict on basis of contaminants.

## Institutional Controls (IC)

ICs may be allowed as part of a cleanup strategy—use and review is decided on a case-by-case basis.

- **IC Tracking:** ICs are recorded on deed notices and environmental covenants and are tracked by the Department of Environment and Natural Resources' (DENR) database.
- **IC Tracking:** ICs and conditions of closure are defined in the COC. ICs may also be defined in an environmental covenant developed in accordance with the Uniform Environmental Covenant Act. The COC and covenant are recorded on the property title upon successful completion of a voluntary cleanup. Recorded COCs and covenants are included on the UDEQ/DERR's Web page to augment the public record.
- **IC Oversight:** UDEQ/DERR reviews and accepts all proposed remedies under the VCP prior to implementation. A site management plan may be necessary to manage engineering and/or ICs.
- **IC Monitoring:** The UDEQ/DERR actively manages post-remediation sites with a Site Management Plan and environmental covenant to ensure the remedy remains protective of human health and the environment.

The following Web addresses are direct links to the state's public database that maintains an inventory of sites, provides site location information, and/or tracks ICs. The links also provide additional information regarding contaminated sites in the state.

VCP/Brownfields Section Utah VCP Site List – <http://www.superfund.utah.gov/docs/VCPsiteslist.pdf>

DEQ Interactive Map – <http://enviro.deq.utah.gov/>

CERCLA Branch: VCP: Certificate of Completion – <http://www.superfund.utah.gov/vcpic.htm>

CERCLA Branch: VCP: Environmental Covenant – [http://www.eqedocs.utah.gov/Default.aspx?SSName=DERR\\_CERCLA\\_EC](http://www.eqedocs.utah.gov/Default.aspx?SSName=DERR_CERCLA_EC)

## PROGRAM HIGHLIGHTS

Cleanup of the former Simpson Steel site was completed in 2009 and a COC was issued under the VCP in March 2010. A transit oriented development became the driving force for the transformation of this underutilized, industrial property since a light rail station is directly adjacent to the site. Today, the site is known as the Lions Gate development. The first phase was completed in spring 2012 with the completion of 400 apartment units. The next phase of the development will include low-income housing units as well as retail, restaurant and office space – all of which will be less than a five minute walk to a light rail station.



Former Simpson Steel Site – Before



Former Simpson Steel Site - After

## OTHER LAND PROGRAMS

### Underground Storage Tanks (UST) Program

<http://www.undergroundtanks.utah.gov/>

### Leaking Underground Storage Tanks (LUST) Program

<http://www.undergroundtanks.utah.gov/lust.htm>

### Methamphetamine Cleanup

[http://www.superfund.utah.gov/meth\\_cleanup.htm](http://www.superfund.utah.gov/meth_cleanup.htm)

### Superfund Program

<http://www.superfund.utah.gov/>

## Voluntary Remediation Program (VRP) / Brownfields Assistance

Wyoming Department of Environmental Quality (DEQ)  
122 W. 25th Street  
Herschler Building  
Cheyenne, WY 82002  
<http://deq.state.wy.us/shwd/>

Contact(s): Jerry Breed  
VRP Program Manager  
[jseyler@mt.gov](mailto:jseyler@mt.gov)  
406-841-5071

Vickie Meredith  
Brownfields/Orphan Sites Program Supervisor  
[vmered@wyo.gov](mailto:vmered@wyo.gov)  
307-335-6948

### Program Overview

- Brownfields Assistance Program
- Cost to Enter the VRP Program: \$500 plus oversight fees (\$50/hour)
- MOA with EPA Region 8 (March 2002)
- Liability Relief Provisions

### PROGRAM

Enacted in the 2000 session of the Wyoming Legislature, the Voluntary Remediation of Contaminated Sites Law sets out a process that can be used by owners of contaminated sites, or by potential developers to reach decisions quickly about required remedial activities and put contaminated sites back into productive reuses. Beginning in 2005, the Wyoming Department of Environmental Quality (DEQ) created a Brownfields Assistance Program to help local governments facilitate investigation and cleanup of brownfields.

<http://deq.state.wy.us/volremedi/index.asp>

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** \$500 application fee covers the first 10 hours of oversight. Additional oversight is billed at a rate of \$50/hour.
- **Sites Enrolled in VRP:** As of January 2011, 172 sites were in the program; 9 sites have been provided brownfields assistance.
- **Sites Completed under VRP:** As of January 2011, 75 sites had completed cleanups through the program.

### FINANCIAL ELEMENTS

#### Assessment and Cleanup Funding

A variety of technical assistance is available to assist with brownfields reuse projects. <http://deq.state.wy.us/volremedi/brownfields.asp>

#### Liability Relief Provisions

DEQ has three types of liability assurances: Covenants Not to Sue, Certificates of Completion, and No Further Action letters. <http://deq.state.wy.us/volremedi/incentives.asp>.

### PROGRAM ELEMENTS

#### Methods/Standards/Controls

Voluntary remediation standards; site-specific, risk-based standards; considerations in choice of remedy; alternate standards for soil or water; point of compliance; contamination from source not on site; alternate remediation standards for site contaminated from source not onsite; and supplemental requirements.

#### Contaminants Covered

All contaminants are eligible in the program.

#### Institutional Controls (IC)

The program uses ICs.

- **IC Tracking:** Conducted as part of remedy agreement performance criteria; publicly available on Voluntary Remediation Program (VRP) website.

- **IC Oversight:** Conducted as part of remedy agreement performance criteria.
- **IC Monitoring:** Conducted as part of remedy agreement performance criteria.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state. <http://deq.state.wy.us/volremedi/sitelist.asp>

## PROGRAM HIGHLIGHTS

In Wyoming in 2011, a new rule took effect that states that facilities must be implementing a Pollution Prevention (P2) Plan consistent with the promulgated Voluntary Remediation Program (VRP) rule to be eligible to enter a contaminated site into the program. A statewide outreach campaign utilizing a variety of media was launched to inform Wyoming facility owners and operators about Pollution Prevention Planning and the new rule.

Components of the outreach campaign included:

- A mass mailing to over 15,000 entities in Wyoming
- Development of two 60-second P2 public service announcements (PSAs) that aired on multiple radio stations over several months
- Development of two 30-second PSAs in video format that aired on both local and cable TV outlets statewide
- Two half-page color display PSAs published in the only statewide newspaper in Wyoming
- Development of an "Interactive Toolbox" for the VRP website that provides Best Management Practices for P2, and a variety of other electronic P2 resources for Wyoming business owners and operators

In September 2011, the National Pollution Prevention Roundtable announced that the Wyoming Department of Environment Quality VRP won an MVP2 award for Multi Media for the television video P2 PSA, an MVP2 award for Multi Media for the electronic outreach material (P2 Interactive Toolbox), and an honorable mention award for the radio PSA. For more information on the Wyoming VRP and the P2 outreach efforts, please visit the website: <http://deq.state.wy.us/volremedi/P2-planning.asp>.

## OTHER LAND PROGRAMS

### Storage Tank Program

<http://deq.state.wy.us/shwd/stp/index.asp>

### Hazardous Waste and Corrective Action

[http://deq.state.wy.us/shwd/HW/index\\_hw.asp](http://deq.state.wy.us/shwd/HW/index_hw.asp)

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# EPA REGION 9

## Brownfields Response

American Samoa Environmental Protection Agency  
(AS-EPA)  
P.O. Box PPA  
Utulei Office Building  
Pago Pago, American Samoa 96799  
<http://asepa.gov>

Contact(s): Ioane Tomanogi  
Brownfields Coordinator  
[tomanogi.ioane@gmail.com](mailto:tomanogi.ioane@gmail.com)  
684-633-2304

### Program Overview

- CERCLA 128(a) State Response Program
- Brownfields Program
- Pacific Island Brownfields Response Team

## PROGRAM

The American Samoa State Response Program works to identify, evaluate and address site-specific sources of environmental contamination in American Samoa (AS). By establishing enforcement authorities, enhancing public awareness, providing technical assistance, and coordinating with local partners, AS-EPA facilitates environmental response actions and encourages sustainable planning and reuse of potentially contaminated properties. <http://asepa.gov/site-assessment-remediation.asp>

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** N/A.
- **Sites Enrolled in VCP:** N/A.
- **Sites Completed under VCP:** N/A.

## FINANCIAL ELEMENTS

At this time all program funding is provided under Section 128(a) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). On November 29, 2010, American Samoa signed a Department of Defense State Memorandum of Agreement (DSMOA) and officially become the 53rd participant of the DSMOA Program. The Cooperative Agreement and Joint Execution Plans are currently under development.

## PROGRAM ELEMENTS

AS-EPA works to enhance the four elements of a State Response Program as defined under CERCLA Section 128(a). The program integrates the objectives of various environmental branches that include hazardous materials, emergency response, solid waste, Underground Storage Tank/Aboveground Storage Tank, public outreach, land use management, geographic information systems, engineering, and environmental law. AS-EPA also participates on the Pacific Islands Brownfields Response Team, formed in collaboration with the State Response Programs of Guam, Hawaii and the Commonwealth of Northern Mariana Islands to address the unique environmental and programmatic challenges inherent to the Pacific Islands.

### Contaminants Covered

There are no exclusions under the program.

### Institutional Controls (IC)

ICs are determined on a case-by-case basis.

## PROGRAM HIGHLIGHTS

A property in the Village of Malaeloa was leased to the United States Army in 1998 for the purpose of military training for a period of 10 years. Of the 80 acres leased, 30percent has been classified as wetland. In 2008 the U.S. Army Center for Health Promotion and Preventive Medicine performed a screening level site investigation which revealed lead contaminated soil. The American Samoa EPA used Section 128(a) Response Program funding to review and approve the work plan and provide oversight to the removal of the contaminated soil by the U.S. Army Corps of Engineers (USACE). The remedial action was conducted and completed in January 2012. The property will be placed into agricultural use according to the Village Chief.

## OTHER LAND PROGRAMS

### Hazardous Materials

<http://asepa.gov/hazardous-materials.asp>



Malaeloa Small Arms Firing Range

## Voluntary Remediation Program / Brownfields Assistance Program

Arizona Department of Environmental Quality (ADEQ)  
Waste Programs Division  
1110 W. Washington Street  
Phoenix, AZ 85007

Contact(s): Julie Hoskin  
Voluntary Remediation Program (VRP)  
Manager  
[Hoskin.Julie@azdeq.gov](mailto:Hoskin.Julie@azdeq.gov)  
602-771-4866

Krista Perry  
Brownfields Grant Coordinator  
[Perry.Krista@AZdeq.gov](mailto:Perry.Krista@AZdeq.gov)  
602-771-4170

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$2,000 application fee plus additional fees
- Liability Relief Provisions
- Brownfields Redevelopment Toolbox

## PROGRAM

Through Arizona Department of Environmental Quality's (ADEQ) Voluntary Remediation Program (VRP), property owners, prospective purchasers and other interested parties investigate or clean up a contaminated site in cooperation with ADEQ. VRP results in a streamlined process for program participants who work with a single point of contact at ADEQ to address applicable cross-program remediation efforts. ADEQ reviews these voluntary remedial actions and provides a closure document for successful site remediation that is accepted by all relevant ADEQ programs. <http://www.azdeq.gov/environ/waste/cleanup/vol.html>

- **Funding Source(s) for the Program:** Program fees and federal grants.
- **Cost to enter program or fees for service:** Effective February 9, 2001, the VRP interim fee rules:
  - Establish a \$2,000 non-refundable application fee.
  - Establish an hourly VRP oversight rate of \$110 per hour.
  - Provide for an initial deposit of \$4,000, to be submitted with the participant's work plan or request for a No Further Action (NFA) determination.
  - Provide for additional deposits of \$4,000, if an account drops below \$1,000.
  - Provide small businesses with the opportunity to pay the application fee in installments under an agreement with the department.
- **Sites Enrolled in VRP:** As of June 30, 2012, 80 sites were in the program.
- **Sites Completed under VRP:** As of June 30, 2012, 174 sites completed cleanup through the program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

Site Assessment and Cleanup grants – Through an EPA grant, funds are provided to perform environmental site investigation and cleanup activities if needed, for a qualifying brownfield property. The program is available to municipalities, prospective purchasers and parties who would not be found liable for any existing contamination at the property. Information discovered during an investigation will be considered a public record and will be made available for review at ADEQ. <http://www.adeq.state.az.us/environ/waste/cleanup/brownfields.html>

### Liability Relief Provisions

Prospective Purchaser Agreement (PPA). If the purchaser of the property did not contribute to the contamination at the site, potential Water Quality Assurance Revolving Fund (WQARF) and state Comprehensive Environmental Response Compensation and Liability Act (CERCLA) liability may be avoided through a written agreement with ADEQ. Pursuant to Arizona Revised Statutes (ARS) §49-285.01, ADEQ may enter into a PPA, which provides a written release and Covenant Not to Sue (CTNS) for any potential WQARF liability for existing contamination, if certain statutory conditions are met. Although this statute also refers to providing immunity from contribution claims, which can only be provided through a court decree, ADEQ lacks the independent authority to prevent other parties from pursuing claims.

<http://www.azdeq.gov/environ/waste/sps/liability.html>

### Arizona Brownfields Redevelopment Toolbox

The purpose of this Toolbox is to explain the brownfields process in straightforward terms, and provide rural and smaller city governments/entities/communities with a systematic, start-to-finish, guide to brownfields redevelopment.

<http://www.azdeq.gov/environ/waste/cleanup/download/bftoolbox.pdf>

## PROGRAM ELEMENTS

### Methods/Standards/Controls

The remedies for cleanups are selected on a site-by-site basis. With orphan sites, the state uses Maximum Contamination Level/Maximum Contaminant Level Goals (MCLs/MCLGs), and aquifer standards, which are equivalent to both water quality criteria and ground water standards. If responsible parties are conducting cleanup they may reach agreement with the state whereby the parties use a risk-based cleanup standard. The state applies risk assessment for: carcinogens/non-carcinogens (10-6 to 10-4 Hazard Index of less than or equal to 1); background levels; aquifer standards; MCLs/MCLGs; soil standards; and chemical specific health-based standards. Soil remediation standards may be site-specific (10-6 to 10-4 for carcinogens, Hazard Index of less than 1) or off-the-shelf (based on 10-6 for known carcinogens and 10-5 for others). The state uses the same standards for Resource Conservation and Recovery Act (RCRA) and Leaking Underground Storage Tanks (UST).

### Contaminants Covered

The following contaminants are covered under the program: hazardous substances that are mixed with petroleum products; hazardous wastes as defined in the definition of hazardous substance in CERCLA and including those listed under RCRA; and hazardous wastes that are ignitable, corrosive, reactive or toxic. Crude oil and its fractions are excluded.

### Institutional Controls (IC)

Arizona has a long-term stewardship program for the state voluntary and brownfields cleanup programs that includes monitoring, ICs, review and reevaluation, and declaration of environmental use restriction (DEUR) that run with the land.

- **IC Tracking:** The program maintains a database that tracks ICs and will be made available to the public via the ADEQ website. The database tracks both the implementation and monitoring of ICs at state cleanup program, VRP, brownfields, and federal facility sites. The primary users of this database are internal staff, property owners and consultants.
- **IC Oversight and Monitoring:** The program provides oversight, review, reevaluation and monitoring of ICs.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state. <http://www.azdeq.gov/databases/deursearch.html>

## PROGRAM HIGHLIGHTS

The City of Somerton's water tower is one of the oldest structures in town and considered a landmark, but was showing signs of flaking paint and rust. In commemoration of the State's Centennial, the city was interested in conducting a revitalization project on the landmark that included plans for a 0.45-acre park beneath the tower. However, due to the age of the tower, which was built sometime in the 1930s, the city was concerned about lead paint contamination. In 2012, ADEQ used Section 128(a) Response Program funding to conduct a lead paint inspection of the tower and surrounding soil. The inspection showed that there was no lead contamination of the soil under the tower, but that the old grey paint on the tower needed remediation. The lead paint inspection provided the City of Somerton with vital information about the environmental contaminants present at water tower and allowed the city to develop plans to move forward with the revitalization project.



The City of Somerton's Water Tower

## OTHER LAND PROGRAMS

### Underground Storage Tanks (UST) Program

<http://www.azdeq.gov/envIRON/waste/ust/index.html>

### Hazardous Waste Program

<http://www.azdeq.gov/envIRON/waste/hazwaste/index.html>

### Superfund Program

<http://www.azdeq.gov/envIRON/waste/sps/index.html>

## Brownfields and Environmental Restoration

California Department of Toxic Substances Control (DTSC)

700 Heinz Avenue  
Berkeley, CA 94710

<http://www.dtsc.ca.gov/SiteCleanup/>

Contact(s): Barbara Cook, P.E.  
Chief, Site Mitigation and Brownfields Reuse Program  
[bcook@dtsc.ca.gov](mailto:bcook@dtsc.ca.gov)  
510-540-3825

### Program Overview

- Brownfields Program
- Cost to Enter the Program: Cost recovery
- Liability Relief Provisions

## PROGRAM

Two regulatory bodies within the California Environmental Protection Agency (Cal/EPA) oversee the cleanup of brownfields in California, the Department of Toxic Substances Control (DTSC) and the Regional Water Quality Control Boards (Water Boards). DTSC generally oversees the cleanup of hazardous substance releases, while the Water Boards generally oversee the cleanup of petroleum and other hazardous materials that could potentially affect water quality. While there is overlap in implementing these programs, the Water Boards generally address brownfields cleanups using their Spills, Leaks, Investigations and Cleanup Program (SLIC) or their Leaking Underground Storage Tank (LUST) Cleanup Fund Program. DTSC generally addresses brownfields cleanups using programs under its Brownfields and Environmental Restoration Program.

DTSC Brownfields Reuse Program – <http://www.dtsc.ca.gov/SiteCleanup/Brownfields/>

CA EPA Brownfields Program – <http://www.calepa.ca.gov/Brownfields/>

CA SWRCB Brownfields Program – [http://www.swrcb.ca.gov/water\\_issues/programs/brownfields/](http://www.swrcb.ca.gov/water_issues/programs/brownfields/)

- **Funding Source(s) for the Program:** State Accounts and reimbursements (approximately 80percent), federal grants (approximately 20percent).
- **Cost to enter program or fees for service:** DTSC is obligated to recover its costs and does this through voluntary cleanup agreements, reimbursement agreements, contracts and settlements. The Water Board's SLIC program also requires reimbursement of staff costs.
- **Sites Enrolled in VCP:** As of September 2012, DTSC and Water Boards staff conduct and oversee cleanup on an average of 1,500 sites at any given time. Site-specific information can be found at: <http://www.envirostor.dtsc.ca.gov/public/> and <http://www.geotracker.swrcb.ca.gov/>.
- **Sites Completed under VCP:** As of September 2012, DTSC staff issued either certifications or no further action decisions on over 425 voluntary cleanup sites.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance is available to assist with brownfields reuse projects.

[http://www.dtsc.ca.gov/SiteCleanup/Brownfields/Loans\\_Grants.cfm](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/Loans_Grants.cfm)

[http://www.waterboards.ca.gov/water\\_issues/programs/grants\\_loans/](http://www.waterboards.ca.gov/water_issues/programs/grants_loans/)

### Liability Relief Provisions

Liability relief programs include:

- California's Lender Liability law (Health and Safety Code (HSC) 25548-25548.7) exempts lenders from liability under state and local laws and ordinances (but not from common law liability) provided they do not participate in the management of the property and did not directly contribute to the release or potential release of hazardous substances on the property. Lenders acquiring property through a foreclosure or its equivalent, must make a good faith effort to sell the property.
- California Land Reuse and Revitalization Act (AB389) – [http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP\\_JUMP\\_13327](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP_JUMP_13327)
- Prospective Purchaser Agreements and Liability Relief – [http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP\\_JUMP\\_13318](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP_JUMP_13318)
- Site Designation Committee – [http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP\\_JUMP\\_13297](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP_JUMP_13297)

## PROGRAM ELEMENTS

### Methods/Standards/Controls

The state publishes chemical-specific toxicity factors that are useful in assessing potential risks and hazards from chemicals at sites. Cal/EPA developed screening levels for hazardous substances typically found at brownfields to assist developers and local governments in estimating the costs and extent of cleanup. DTSC follows EPA guidance for risk assessments and uses the federal risk management range with 10-6 as the point of departure. Water Boards develop Basin Plans which set cleanup requirements for ground water and surface water within each basin. Recent legislation (AB 422) requires DTSC and the Water Boards to evaluate the potential for migration of chemicals into indoor air.

### Contaminants Covered

DTSC generally regulates hazardous substances, consistent with the federal definition. Petroleum releases from non-underground storage tank releases may also be addressed. DTSC's Schools Team also addresses naturally-occurring chemicals. The Water Boards regulate hazardous materials which include petroleum hydrocarbons.

### Institutional Controls (IC)

The state allows ICs, monitors and enforces cleanups, and completes audits. ICs include well drilling restrictions, easements, restrictive covenants, reversionary interests, deed restrictions, and notices placed on deeds. As mandated by state law, DTSC and the Water Boards maintain a list of deed-restricted properties that is available on the Internet.

[http://www.dtsc.ca.gov/Mandated\\_Postings.cfm#CP\\_JUMP\\_103495](http://www.dtsc.ca.gov/Mandated_Postings.cfm#CP_JUMP_103495)

[http://www.waterboards.ca.gov/water\\_issues/programs/deed\\_restrict/](http://www.waterboards.ca.gov/water_issues/programs/deed_restrict/)

- **IC Tracking:** ICs used by DTSC to notify the public include posting sites, publishing notices in newspaper, creating mailings for local residents, and maintaining the EnviroStor database. The state has a process outlined in statute to remove a deed restriction if a site is remediated to unrestricted use.
- **IC Oversight:** DTSC is currently utilizing the Terradex™ LandWatch system to give early notification of potential activities on properties subject to land use restrictions implemented as part of a final remedy for a site under DTSC oversight.
- **IC Monitoring:** In addition to deed restrictions, DTSC's regulations also require financial assurance for sites that are not cleaned to levels appropriate for unrestricted use. DTSC also requires the periodic review of site conditions to ensure that site conditions have not changed and that the remedy is still effective.

## PROGRAM HIGHLIGHTS

DTSC provided \$525,000 through a sub-grant from its Revolving Loan Fund to address contamination from a former auto wrecking yard so that the property could be redeveloped for affordable housing in San Jose. The funds were used to remove soil containing lead, petroleum hydrocarbons and polychlorinated biphenyls (PCBs). The City of San Jose provided land acquisition and construction loans to help realize key city objectives to stimulate development and affordable housing near transit and downtown jobs. The 92-unit Orvieto Family Apartments complex officially opened in May 2012, following a year-long contaminant cleanup overseen by the DTSC. Its location near bus lines, light rail and within a mile of a major retail center and its integration into a larger 29-acre Mediterranean-themed development called Montecito Vista Urban Village, provides a new gateway into downtown San Jose from the south. The project created an estimated 130 jobs and paid \$600,000 in fees to the city and local school district.

## OTHER LAND PROGRAMS

### Voluntary Cleanup Program

[http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP\\_JUMP\\_13298](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP_JUMP_13298)

### Underground Storage Tanks (UST) Program

[http://www.waterboards.ca.gov/water\\_issues/programs/ust/](http://www.waterboards.ca.gov/water_issues/programs/ust/)

## Guam Environmental Protection Agency Green Parcel Program

Guam Environmental Protection Agency (Guam EPA)  
P.O. Box 22439 GMF  
Barrigada, GU 96913  
<http://epa.guam.gov/>

Contact(s): Walter S. Leon Guerrero  
Program Manager  
[walter.leonguerrero@epa.guam.gov](mailto:walter.leonguerrero@epa.guam.gov)  
671-475-1658/9 (w)

### Program Overview

- Brownfields Program

## PROGRAM

Guam EPA's Brownfields Program mission is to discover, assess and address all potentially contaminated sites and to ensure protection of human health and the environment by encouraging public participation in decision-making and applying appropriate enforcement actions when necessary. It is Guam EPA's goal to identify and evaluate the risks posed by these properties and find solutions so that reuse and redevelopment is possible. Guam EPA seeks to accomplish these goals through public education, outreach and local partnerships with private and government agencies.

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** N/A.
- **Sites Enrolled in VCP:** N/A.
- **Sites Completed under VCP:** N/A.

## FINANCIAL ELEMENTS

- Section 128(a) Response Program Grant - \$370,175 for Brownfields Site Assessment and Cleanup (2013).
- \$430,000 for Brownfields Site Assessment and Cleanup (2010).
- Section 104(k) Grant - \$200,000 for Hazardous Substance Site Assessment and \$200,000 for Petroleum Site Assessments (2006 – 2012 ).

### Assessment and Cleanup Funding

- Guam EPA is using Section 128(a) Response Program funds to conduct site assessment and to identify cleanup activities.
- EPA Brownfields 104(k) Hazardous Substance Assessment Grant (\$200,000) and EPA Brownfields Petroleum Assessments Grant (\$200,000).

## PROGRAM ELEMENTS

Under Section 128(a) Response Program funding, Guam EPA is in the process of establishing program guidelines, legal authorities and public awareness necessary to address contaminated properties.

### Contaminants Covered

The program covers Comprehensive Environmental Response Compensation and Liability Act (CERCLA) hazardous substances, petroleum, lead-based paint and asbestos.



## PROGRAM HIGHLIGHTS

Guam EPA's redevelopment of a previous contaminated brownfields property northeast of the former Tiyan Gym provided temporary economic benefit by providing a site for the island's annual Liberation Carnival. The Liberation Carnival is held during the entire month of July. It commemorates the nation's independence, but more importantly to the local community it allows them to celebrate the liberation of being an occupied (Japanese) nation from World War II. The property was vacant and overgrown with secondary vegetation. The 42-acre property was sampled at three areas of concern to insure the safety of the Liberation crowds but also to address the nearby sport fields that are being utilized by the youth football and soccer teams, youth and adult softball teams as well as adult football and soccer teams. Guam EPA used Section 128(a) Response Program funding to oversee an environmental contractor that conducted soil samples to determine if remedial cleanup was necessary. The results of the investigation revealed that no environmental cleanup was necessary and the property was ready for reuse. Carnival vendors and nonprofit organizations utilize the carnival grounds for the yearly event that lasts a month and provides economic benefits for the local community. The former brownfield property provides a place for families to congregate to enjoy festive activities, cultural demonstrations, and local arts and crafts. In addition to seasonal benefits, the property is utilized year-round for recreation. Recreational sports facilities include a football field, baseball field, and soccer field and are used by sports organizations and residents to enjoy.



Year-round sports fields at the former brownfield property

## OTHER LAND PROGRAMS

### Underground Storage Tank (UST) Program

[http://guamepa.net/Guam\\_Underground\\_Storage\\_Tank\\_Regulations\\_\(Draft\\_Final\\_v.02DEC10\)\[1\].pdf](http://guamepa.net/Guam_Underground_Storage_Tank_Regulations_(Draft_Final_v.02DEC10)[1].pdf)

## State Cleanup Program

Hazard Evaluation and Emergency Response (HEER) Office  
Hawaii Department of Health (HDOH)  
919 Ala Moana Boulevard, Room 206  
Honolulu, HI 96814  
<http://eha-web.doh.hawaii.gov/eha-cma/Org/HEER/>

Contact(s): Fenix Grange  
[fenix.grange@doh.hawaii.gov](mailto:fenix.grange@doh.hawaii.gov)  
808-586-4249  
  
Lynn Bailey  
[lynn.bailey@doh.hawaii.gov](mailto:lynn.bailey@doh.hawaii.gov)  
808-586-4249

## Brownfields Cleanup and Redevelopment

Office of Planning  
Department of Business Economic Development and Tourism  
P.O. Box 2359  
Honolulu, HI 96804-2359  
<http://eha-web.doh.hawaii.gov/eha-cma/Leaders/HEER/brownfields-redevelopment-program>

Contact(s): Ruby Edwards  
[redwards@dbedt.hawaii.gov](mailto:redwards@dbedt.hawaii.gov)  
808-587-2817  
  
Mary Alice Evans  
[maevans@dbedt.hawaii.gov](mailto:maevans@dbedt.hawaii.gov)  
808-587-2802

### Program Overview

- Fast Track Cleanups
  - Cost: Oversight fees
- Voluntary Response Program
- Liability Relief Provisions
  - Cost: \$1,000 plus oversight fees
  - Liability Relief Provisions

## PROGRAM

The State of Hawaii [State Cleanup Program \(SCP\)](#) provides two targeted cleanup programs for brownfields to encourage voluntary investigation and cleanup of properties that may be contaminated. [The Voluntary Response Program \(VRP\)](#) offers purchasers exemption from future liability related to contamination addressed under the VRP, providing technical guidance, timely oversight and regulatory assurance of completed cleanups. The VRP is used successfully by property owners, prospective purchasers, developers, and lenders.

<http://eha-web.doh.hawaii.gov/eha-cma/Leaders/HEER/voluntary-response-program>

[Fast Track Cleanups \(FTC\)](#) offer landowners or other private parties the alternative to conduct an expedited voluntary investigation or cleanup under a simple agreement with the HEER Office. While still adhering to the State Contingency Plan (SCP), FTC offers a fundamentally different approach from traditional SCP cleanups by placing a greater burden of technical justification on the participant, with less intermediate regulatory review and approval of multiple work plans and other interim report submittals. The focus of FTC is to streamline and expedite the assessment, cleanup and closure process at low and medium priority sites.

- **Funding Source(s) for the State Cleanup Programs:** Federal grants, State of Hawaii Brownfields Cleanup Revolving Loan Fund and State Environmental Response Revolving Fund.
- **Cost to enter VRP program or fees for service:** \$1,000 application fee per request, \$100 per hour oversight charge (applied to a required \$5,000 deposit).
- **Sites Enrolled in VRP:** As of November 2012, 31 contaminated properties have been enrolled in the VRP program. Today, there are a total of 9 active VRP sites in the program.
- **Sites Completed under VRP:** As of November 2012, HDOH has issued 21 Letters of Completion for 19 sites, closed one site with an No Further Action (NFA) determination without liability relief, and 3 sites withdrew from the program.
- **Fees for service for Fast Track and traditional SCP cleanups:** Hourly oversight charge. Note: Many brownfields redevelopments continue to be investigated and cleaned up under the traditional state cleanup program.
- **Sites Enrolled in State Program:** Between Fiscal Year (FY) 2009 and FY 2011, 122 new sites have been added. As of November 2012, the HEER office was overseeing assessment and cleanup of 428 active state sites.
- **Sites Completed under State Program:** Between FY 2009 and FY 2011, a total of 135 state sites have received NFA determinations.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- Potential sources of leveraged state funds for the State of Hawaii Brownfields Cleanup Revolving Loan Fund include the Hawaii Capital Loan Program, Hawaii Innovation Development Program, Community-Based Economic Development Loan Program, and the nonprofit Hawaii Community Loan Fund.

- County-administered Community Development Block Grants may also be leveraged.
- Coalition partners work through existing planning and redevelopment programs to identify additional funding sources for brownfields cleanup.

### Liability Relief Provisions

The Hawaii Environmental Response Law, HRS 128D states that a defendant may avoid liability where the real property on which the facility concerned is located was acquired by the defendant after the disposal or placement of the hazardous substance on, in, or at the facility, and either: 1) at the time the defendant acquired the facility the defendant did not know and had no reason to know that any hazardous substance which is the subject of the release or threatened release was disposed on, in, or at the facility; 2) the defendant is a government entity which acquired the facility through involuntary transfer or acquisition; or 3) the defendant acquired the facility by inheritance or bequest. Additional protections against future liability for contaminants remediated under a VRP agreement are available under HRS 128E, the Voluntary Response Program.

The Hawaii Environmental Response Law was amended in 2009 to add a definition for “bona fide prospective purchasers” consistent with federal law and to limit liability for bona fide prospective purchasers who knowingly purchase contaminated property.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Hawaii uses a compilation of Environmental Action Levels (EAL) prepared by an in-house scientist. The EALs cover all environmental hazards, not just human health. The VRP requires that cancer risk level of 10<sup>-6</sup> must be met for a site to be considered clean.

<http://eha-web.doh.hawaii.gov/eha-cma/Leaders/HEER/technical-guidance-and-fact-sheets>

### Contaminants Covered

Over 150 common contaminants are covered, including petroleum compounds, solvents, metals, pesticides, dioxins, polychlorinated biphenyls, polycyclic aromatic hydrocarbons, etc. Asbestos and lead-based paint are evaluated separately.

### Institutional Controls (IC)

ICs are allowed, primarily after active remediation has been conducted.

**IC Tracking, Oversight, and Monitoring:** Hawaii has an IC tracking system, and provides oversight through closure documents and environmental covenants that reference ICs. Under the State Response Program Grant, Hawaii has begun to monitor existing ICs and expand the State IC tracking program. The following Web address is a direct link to the state’s public database that maintains an inventory of sites, maps sites and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://eha-web.doh.hawaii.gov/eha-cma/Leaders/HEER/public-records-and-reporting-information>

## PROGRAM HIGHLIGHTS

In order to more accurately update the EALs and assess the hazards posed by certain types of contaminants, the HEER Office completed the initial phases of two studies during FY12. A background metals study was necessary to gain critical information that is unique to the volcanic soils in Hawaii. The results of the soil vapor study enhanced Hawaii’s guidance, and have national implications, as well. Hawaii’s unique volcanic soils can have unusually high concentrations of naturally occurring metals compared with mainland soils. While these soils do not pose a health risk, it is very important to be able to differentiate between spills of toxic materials that require action under state cleanup statutes and natural local conditions. A background metals study was conducted to determine the nonanthropogenic, naturally occurring background concentration ranges of metals and other elements in Hawaii’s volcanic soils. The database used in the study was compiled from literature review of previous research projects, soil data requested from the Natural Resources Conservation Service database, and soil data collected by HDOH. A total of 180 samples representing surface soil concentrations of 29 chemicals throughout the seven main Hawaiian islands (Kaua’i, O’ahu, Moloka’i, Lana’i, Maui, Kaho’olawe, and Hawai’i Island) were included for the background analysis. The results of this study were incorporated into the fall 2011 edition of the HDOH Environmental Hazard Evaluation Guidance and associated EALs. The results were also released to the consulting community to be used on a site-specific basis. A soil vapor study was conducted to update the total petroleum hydrocarbon (TPH) soil gas action levels for evaluation of vapor intrusion hazards and develop more efficient, cost effective and accurate approaches for investigation and evaluation of vapor intrusion hazards at petroleum-contaminated sites. The carbon-range data evaluated during the study reinforced HEER assessments of health risks associated with TPH components of petroleum vapor other than benzene, toluene, ethylbenzene, and xylenes. An advanced, high-tech soil vapor guidance was developed and posted to the Environmental Hazard Evaluation Section of the HEER Website, along with a presentation summarizing the results, and updates to the HEER technical Guidance Manual are pending. The information garnered from the study is also valuable on a national level. The HEER Office coordinated with the EPA to present an overview of the TPH soil gas study in two national webinars in March 2012. Representatives from the HEER Office and SHWB are currently working with the Interstate Technology and Regulatory Council to incorporate the findings of the HDOH study into the technical regulation the group is developing.

## OTHER LAND PROGRAMS

### Underground Storage Tank (UST) Program

<http://hawaii.gov/health/environmental/waste/ust/index.html>

# NORTHERN MARIANA ISLANDS

## Brownfields Program

Commonwealth of the Northern Mariana Islands (CNMI)

Division of Environmental Quality (DEQ)  
Site Assessment and Remediation Branch  
PO Box 501304  
Saipan, MP 96950  
<http://www.deq.gov.mp>

Contact(s): Ray Masga, Brownfields Coordinator  
[raymasga@deq.gov.mp](mailto:raymasga@deq.gov.mp)  
670-664-8500

### Program Overview

- Submerged Lands Project – UXO Hazard
- Community Outreach – UXO Safety
- Voluntary Response Project
- DEQ Staff Training – HAZWOPER Trainers
- Brownfields 104k Phase II ESA Projects

## PROGRAM

The Commonwealth of the Northern Mariana Islands (CNMI) Division of Environmental Quality's (DEQ) Site Assessment and Remediation (SAR) branch protects public health and the environment by ensuring the assessment and cleanup of sites contaminated by hazardous substances and petroleum products. This branch is responsible for the assessments and cleanup of site contamination, as a result of the release of hazardous substances and petroleum, which includes reviewing and approving of all remedial action work plans (including sampling, analysis and quality assurance plans); implementing the Site Discovery, Preliminary Assessment and Site Inspection program, and the Section 128(a) Response Program; and coordinating with the U.S. Army Corps of Engineers (USACE) with Formerly Used Defense Site activities.

<http://www.deq.gov.mp/section.aspx?seclD=8>

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** N/A.
- **Sites Enrolled in VCP:** N/A.
- **Sites Completed under VCP:** N/A.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- CNMI DEQ is using Section 128(a) Response Program grant funds to develop and enhance its Response Program by establishing program guidance documents, policies and regulations. Section 128(a) is also used to provide training to staff for capacity building and professional development. Some funding is used to conduct site stabilization activity to minimize or prevent hazardous substance and/or petroleum releases.
- EPA Brownfields Hazardous Substance Assessment grant (\$200,000) and EPA Brownfields Petroleum Assessments grant (\$200,000). Both funding sources are used for conducting Phase I and Phase II Environmental Site Assessments (ESA).

### Pacific Islands Brownfields Response Team

The Pacific Islands Brownfields Response Team (PIBRT) was created to establish regional support for the development and enhancement of Response Programs under Section 128(a) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). The PIBRT represents collaboration between American Samoa EPA, Guam EPA, CNMI DEQ, and the Hawaii Department of Health. Team members seek to enhance their respective Response Programs through cooperation, coordination and leveraging of resources. PIBRT also hopes to bring greater recognition and attention to the unique challenges and accomplishments of Response Programs the Pacific Islands.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

CNMI DEQ prepared an Environmental Screening Levels (ESLs) document in 2005 (updated March 2009). The CNMI DEQ ESLs is modeled after the Hawaii Department of Health EALs and the California Environmental Protection Agency ESLs.

<http://www.deq.gov.mp/article.aspx?seclD=8&artID=133>

### Contaminants Covered

Hazardous substance (including explosives constituents) and petroleum products.

## Institutional Controls (IC)

ICs are allowed under the program as prescribed under the Harmful Substance Cleanup Regulations (Part 200 §65-40-220).

The following Web address is a direct link to CNMI's public record that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in CNMI. <http://www.deq.gov.mp/article.aspx?secID=8&artID=96>

## PROGRAM HIGHLIGHTS

During fiscal year 2012, the CNMI DEQ used Section 128(a) Response Program funding to conduct the Submerged Lands project that focused on performing a historical research for information and inventory of potential unexploded ordnance (UXO) sites within submerged lands of the CNMI. The project report was completed on June 30, 2012 and will be used as a preliminary screening tool to determine potential sites with ordnance contamination as a result of World War II. The use of Section 128(a) Response Program funding used to complete this project allowed the CNMI DEQ to re-evaluate the inventory to conduct community-wide ASTM Phase I and Phase II ESAs.

Also, CNMI DEQ started the development of its Voluntary Response Program (VRP) guidance document and VRP regulations in 2011 and completed the project in 2012. The VRP guidance and VRP Regulation Development project was undertaken to provide liability protection from local enforcement action for the release of a harmful substance, as defined under the DEQ Harmful Substance Regulations and petroleum products. As part of the VRP project, DEQ conducted public trainings on the three main islands of Saipan, Tinian, and Rota geared toward providing outreach to the community to inform the CNMI on the advantages of the program and how the program works. With DEQ oversight from start finish in the cleanup process under the VRP program, the DEQ hopes that this activity will promote better partnership with responsible parties to ensure cleanups are completed correctly to protect public health and the environment.

Finally, funded under its 128(a) State Response Program, six DEQ staff completed the 40Hr HAZWOPER Train-The-Trainer training. These DEQ staff are now certified trainers under the New Environment, Inc. training program. DEQ now has the capability to conduct in-house 40Hr HAZWOPER training and the 8HR Refresher course to maintain certification.

Other outreach activities that DEQ performed in FY12 include the most recent presentation at the American Memorial Park to the Ridge to Reef summer campers and high school student interns on Munitions Recognition & Safety Awareness: 3 Rs of Munitions Safety. The need for outreach awareness on ordnance safety is important within the CNMI because of CNMI's role in the battle of World War II. The photo above illustrates a U.S. Military hand grenade found by a group of children during the CNMI DEQ vs. GUAM EPA Goodwill Games held at the American Memorial Park in June 2012.

## OTHER LAND PROGRAMS

### Pesticides and Storage Tanks Program

<http://www.deq.gov.mp/section.aspx?secID=7>

### Toxic Waste Management Program

<http://www.deq.gov.mp/section.aspx?secID=11>



UXO presentation to summer campers



UXO found by a group of children at Micro Beach in Garapan, Saipan



## Brownfields Program/ Voluntary Cleanup Program (VCP)

Nevada Division of Environmental Protection (NDEP)  
Bureau of Corrective Actions  
901 S Stewart Street  
Carson City, NV 89701  
<http://ndep.nv.gov/bca/>

Contact(s): Jeff Collins  
Brownfields Supervisor  
[jrcollins@ndep.nv.gov](mailto:jrcollins@ndep.nv.gov)  
775-687-9381

David Friedman  
Brownfields Project Manager  
[dfriedman@ndep.nv.gov](mailto:dfriedman@ndep.nv.gov)  
775-687-9385

### Program Overview

- Brownfields Program
- Cost to Enter the Program: Cost based on type/size of property
- Liability Relief Provisions

## PROGRAM

Nevada's Section 128(a) Response Program aims to reach for opportunities to create partnerships that improve Nevadans' lives and the quality of their communities, and to be acknowledged as an agency that maximizes opportunities through the creative and efficient use of resources. The Nevada State legislature passed the Voluntary Cleanup Program (VCP) in 1999. The VCP provides relief from liability to owners who undertake cleanups of contaminated properties under the oversight of the Nevada Division of Environmental Protection (NDEP).

<http://ndep.nv.gov/bca/vcp.htm>

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** Depends on type of property: residential property fee is \$400; commercial property: less than 1 acre (\$500); 1–25 acres (\$1,000); 26–100 acres (\$1,600); more than 100 acres (\$2,000).
- **Sites Enrolled in VCP:** As of October 2012, 1 site was enrolled in the program.
- **Sites Completed under VCP:** As of October 2012, 1 site had completed cleanup through the program.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- NDEP is using Section 128(a) Response Program funds to conduct site assessment and cleanup activities.  
[http://ndep.nv.gov/bca/brownfield\\_state-grant.htm](http://ndep.nv.gov/bca/brownfield_state-grant.htm)
- Nevada also operates an \$800,000 Revolving Loan Fund targeted for cleanups conducted by private land owners and developers.  
[http://ndep.nv.gov/bca/brownfld\\_loans.htm](http://ndep.nv.gov/bca/brownfld_loans.htm)

### Liability Relief Provisions

The VCP provides liability relief to: 1) current owners of contaminated sites; 2) prospective purchasers; 3) financial entities who hold an evidence of title to protect a security interest; or 4) a government entity which has received a parcel of real property through default. The 2003 State Legislative Session resulted in the adoption of liability relief provisions for bona fide prospective purchasers and innocent landowners modeled on the federal Brownfields Law.

<http://ndep.nv.gov/bca/liability.htm>

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Actions under the state VCP must be in compliance with the state's environmental professional certification program. Sampling at brownfields assessments and cleanups must be conducted consistent with a project-specific Quality Assurance Plan (QAPP) that is approved by EPA Region 9 and meets Tier III data quality requirements with independent data verification.

This is achieved by following the Region 9-approved State of Nevada Brownfields Program QAPP.

[http://ndep.nv.gov/bca/brownfield\\_qa\\_plan07.htm](http://ndep.nv.gov/bca/brownfield_qa_plan07.htm)

### Contaminants Covered

Asbestos, lead paint and polychlorinated biphenyls (PCBs) are all covered under the program. Petroleum is covered under the program only if the site does not qualify for reimbursement under the state's Petroleum Fund.

### Institutional Controls (IC)

ICs are utilized in NDEP No Further Action letters.

- **IC Tracking, Oversight, and Monitoring:** NDEP is currently developing an IC tracking, oversight and monitoring program.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state. <http://ndep.nv.gov/bca/data.htm>

### PROGRAM HIGHLIGHTS

The Nevada Section 128(a) Response Program has been working closely with the Town of Tonopah to renovate its existing Visitor and Convention Center facility and to expand the Town's facilities by restoring the rundown and vacant Belvada Hotel. The existing Visitors and Convention Center is a single-story building constructed during World War II. Maintenance and utility costs required to keep this building open and functioning have become too high for the Town to continue to operate the facility as-is. Tonopah officials have identified an answer to reduce operating costs and grow its capability for tourism while maintaining the town's gritty, 19th century boom town heritage by renovating the existing Convention Center and refurbishing the historic Belvada Hotel building. The five-story Belvada Hotel, less than a block away from the Convention Center, was constructed in 1906 in the Neo-Classical style with brick façade and stone pilasters, and a flat roof with a pediment-like stepped central parapet. Although vacant for the last 25 years, the building has housed a bank, convenience store, numerous retail shops, and apartments through its life. Ownership has fallen to the Town through donation and the plan is to move the Visitors and Convention Center offices, the town library, and other municipal offices into this handsome building once it has been fully restored. The Town sought help in providing Phase I and Phase II Assessments for the Belvada prior to its acquisition and received nearly \$23,000 from the program to perform this work. The assessments identified lead-based paint, asbestos-containing materials and petroleum contamination on the dirt floor of the basement as recognized environmental concerns. The Town also received \$235,000 from the Nevada Section 128(a) Brownfields Program to clean up most of the contamination found in the ESA and just completed this work in June 2012. The Town has leveraged the Brownfields Program funding with \$389,000 of its own funds, \$250,000 in a Department of Housing and Urban Development (HUD) Economic Development Grant, and over \$1.4 million in U.S. Department of Agriculture (USDA) Rural Development Grant funding to assure the restoration project has the resources to get completed.



The former Belvada Hotel prior to renovations

### OTHER LAND PROGRAMS

#### Petroleum Program

<http://ndep.nv.gov/bca/fundhome.htm>

#### Superfund Program

<http://ndep.nv.gov/bca/spfdhome.htm>

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# EPA REGION 10

## Reuse & Redevelopment (R&R) Program

Alaska Department of Environmental Conservation (DEC)  
Division of Spill Prevention and Response  
610 University Avenue  
Fairbanks, AK 99709-3643  
<http://dec.alaska.gov/spar/csp/>

Contacts: John Carnahan  
Brownfield Coordinator  
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907-451-2166

Sonja Benson  
Brownfield Program Specialist  
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907-451-2156

Melinda Brunner  
Brownfield Program Specialist  
[Melinda.Brunner@alaska.gov](mailto:Melinda.Brunner@alaska.gov)  
907-451-5174

### Program Overview

- Reuse & Redevelopment Program
- Cost to Enter the Program: No fee
- Assessment and Limited Cleanup Services
- Liability Relief Provisions

## PROGRAM

Alaska does not have a formal Voluntary Cleanup Program agreement with EPA. The Alaska Department of Environmental Conservation's (DEC) Reuse & Redevelopment (R&R) Program has developed resources to assist tribes, Alaska Native corporations, municipalities, and borough governments in identifying and assessing their brownfields. The Program works to help other state agencies in managing their contaminated sites for which a redevelopment interest exists on the part of a local community. The R&R Program also assists eligible applicants in applying for EPA Brownfields Program assistance and grants. The Program provides technical assistance, performs site assessments, conducts cleanups, helps maintain a publicly accessible contaminated sites database, and tracks site progress toward successful reuse. DEC's R&R Program also has a large outreach and education component, with an emphasis on helping the more than 20 Alaska Tribal Response Programs in implementing and enhancing their programs. The R&R Program's objectives are to enable economic redevelopment of properties that are abandoned or underutilized as a result of real or perceived environmental conditions, while providing adequate oversight and protection to human health and the environment. The Program dedicates staff resources to work with government agencies, tribes, responsible parties, land owners, EPA, and developers to effectively facilitate environmental remedies commensurate with site conditions, leading to the reuse of contaminated properties. <http://www.state.ak.us/dec/spar/csp/brownfields.htm>

- **Funding Source for the Program:** Federal funding (Section 128(a)).
- **Cost to Enter Program or Fees for Service:** There are no fees or cost recovery associated with R&R Program assistance, which can include both assessment and cleanup services; however, DEC's Contaminated Sites Program, where the R&R Program is housed, is required by statute to recover costs from responsible parties for its oversight and any associated contracting services should the state be required to take a state-lead response action. Services provided directly by R&R Program funding and staff for qualifying projects are not part of the cost recovery requirements because the sites involved are only eligible for assistance if no viable responsible party has been identified.
- **Sites Enrolled in DEC's Contaminated Sites Program:** As of July 2012, 2,350 "Open" sites were listed on DEC's Contaminated Sites Database. An additional 57 sites were listed as having "Informational" status; these are sites with environmental concerns, but for which no data have been collected to document confirmed contamination.
- **Sites Completed:** As of July 2012, 3,499 listed sites are identified as having a status of "Cleanup Complete," and 1,139 sites are listed with a status of "Cleanup Complete with Institutional Controls." [http://dec.alaska.gov/spar/csp/db\\_search.htm](http://dec.alaska.gov/spar/csp/db_search.htm).

## FINANCIAL ELEMENTS

### Assessment and Limited Cleanup Services

The R&R Program provides limited assessment or cleanup services to eligible applicants through its DEC Brownfields Assessment and Cleanup (DBAC) program, which targets conditionally eligible brownfield sites that may be in public or private ownership. The R&R Program also oversees assessment and cleanup projects at state-owned sites using state funding where activities will result in a public benefit and reduce the state's liability associated with the site.

<http://dec.alaska.gov/spar/csp/brownfields.htm#assess>  
<http://dec.alaska.gov/spar/csp/bfprojects.htm>

### **Liability Relief Provisions**

The principal tool for providing liability relief is the Prospective Purchaser Agreement (PPA). PPAs have been negotiated for specific sites that meet appropriate criteria, and where the existing site conditions have been investigated and established to an acceptable extent. A PPA is a legal instrument, which must be negotiated through the Alaska attorney general's office, designed to clarify the potential environmental liability a purchaser assumes when buying a property with pre-existing environmental conditions.

## **PROGRAM ELEMENTS**

### **Methods/Standards/Controls**

Responsible parties working under DEC's Contaminated Site Cleanup Rules, found under Title 18 of the Alaska Administrative Code, Chapter 75 (18 AAC 75) are required to conduct appropriate site characterization and cleanup activities under the oversight of a DEC project manager. The responsible party may propose alternative cleanup levels based on site-specific conditions for approval by the site project manager. Cleanup may be approved in some cases as being complete without achieving regulatory cleanup levels if institutional controls (ICs) are placed on the site that provide adequate protection for current and future users. These controls may be administrative or engineering controls. [http://dec.alaska.gov/spar/csp/reg\\_rev.htm](http://dec.alaska.gov/spar/csp/reg_rev.htm)

### **Contaminants Covered**

DEC has statutory authority over all releases to the land and waters of the state; however, DEC does not maintain a RCRA program and coordinates the management of hazardous waste with EPA oversight. Further, while the R&R Program addresses asbestos and lead paint as part of its brownfield assessments, the Contaminated Sites Program does not regulate asbestos-containing materials or lead-based paint in buildings.

### **Institutional Controls (IC)**

DEC will, after consultation with each landowner of a site, determine whether the use of an IC is necessary as part of the cleanup process. ICs may be used on a site-specific basis, if DEC determines that controls are required to ensure compliance with an applicable cleanup level, protection of human health, safety or welfare, or the environment, or to maintain the integrity of site cleanup activities or improvements.

The Contaminated Sites Program uses an IC tracker database module to manage the long-term oversight for contamination that poses limited risk to human health and the environment. Currently, DEC monitors ICs on 1,383 sites, of which approximately 220 are active sites where the controls have been established to protect human health and the environment during ongoing cleanup actions.

## **PROGRAM HIGHLIGHTS**

DEC's R&R Program works extensively with Alaska's federally recognized tribes, most specifically the recipients of EPA's Section 128(a) Tribal Response Program (TRP) funding. Beginning in December 2008, the Program has held an annual Alaska State & Tribal Response Program Brownfield Workshop, either in Fairbanks or Anchorage, attended by representatives from virtually all of the active Alaska TRPs and their EPA project officers. In preparation for the first workshop, Program staff developed the Alaska State & Tribal Response Program – Brownfield Handbook, which is now available online at: <http://dec.alaska.gov/spar/csp/brownfields.htm#handbook>. The handbook is updated before each annual workshop, and as new TRP programs are established. Another cornerstone of outreach efforts is a quarterly newsletter, available on DEC website (<http://www.state.ak.us/dec/spar/csp/brownfields.htm>), which is distributed through the brownfields announcements listserv. Outreach efforts have been recognized by EPA at both the regional and national levels, and resulted in the Program's being honored with the receipt of a National Notable Achievement Award for Brownfield Teamwork in 2011.

In 2012, the R&R Program completed its first brownfields cleanup project, in Kwethluk, removing the structural remnants and contaminated material in the building footprint of a burned-down community center. The devastated structure had occupied an area in the center of the village, next door to the school and the local Head Start facility, for more than six years. The project battled short contract timelines, melting ice roads, and limited funding. The cleanup has helped the community prepare the site for a new community center to be the focal point for their village.

## **OTHER LAND PROGRAMS**

### **Leaking Underground Storage Tanks (LUST) Program**

<http://dec.alaska.gov/spar/csp/leaking.htm>

## Brownfields Revitalization and Environmental Site Response Program/ Voluntary Cleanup Program (VCP)

Department of Environmental Quality (DEQ)  
Waste Management and Remediation Division  
1410 N. Hilton  
Boise, ID 83706  
<http://www.deq.idaho.gov/waste-mgmt-remediation.aspx>

Contact(s): Eric Traynor  
Brownfields Response Program Manager  
[Eric.traynor@deq.idaho.gov](mailto:Eric.traynor@deq.idaho.gov)  
208-373-0565

Bruce Wicherski  
VCP Program Manager  
[bruce.wicherski@deq.idaho.gov](mailto:bruce.wicherski@deq.idaho.gov)  
208-373-0426

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$250 Application Fee and \$2,500 Oversight Fee – these fees only apply to VCP, not brownfields
- Liability Relief Provisions
- Tax Incentives

## PROGRAM

Idaho's Land Remediation Act, or Voluntary Cleanup Program (VCP), is found in Idaho Code 39-7201 et seq., and Department of Environmental Quality's (DEQ) rules implementing the Act are located at IDAPA 58.01.18. The VCP allows for the remediation of hazardous substances and petroleum contaminated sites absent an enforcement action. Under the Program, DEQ and the participant enter into a Voluntary Remediation Agreement under which DEQ and the public review and comment on the proposed Cleanup Work Plan. Once approved by DEQ, the participant conducts the cleanup and DEQ reviews the results. If the cleanup is successful, DEQ issues a Certificate of Completion (COC), DEQ and the participant negotiate a Covenant Not to Sue (CNTS), lender liability protections are provided, and the site owner is afforded a property tax reduction for up to seven years related to the increase in property value due to the cleanup. In 2004, DEQ established its Brownfields Revitalization and Environmental Site Response Program. This Program facilitates the reuse of brownfields and works to develop Web tools, authorities and guidance aimed at improving the efficiency of all DEQ remediation programs. DEQ is also a member of a seven-member coalition called the Reuse Idaho Brownfield Coalition (RIBC). RIBC is composed of DEQ and Idaho's six economic development districts, and manages a \$4,500,000 EPA Brownfield Cleanup Revolving Loan Fund (RLF). <http://www.deq.idaho.gov/waste-mgmt-remediation/brownfields.aspx>

- **Funding Source(s) for the Program:** Federal grants.
- **Cost to enter program or fees for service:** Participants must pay to DEQ two fees under the VCP: 1) a \$250 application fee; and 2) an initial \$2,500 fee for DEQ oversight costs related to review of the remediation work plan and site activities conducted thereunder. There is no cost to participate in the brownfields site assessment program.
- **Sites Enrolled in VCP:** As of August 2012, 12 sites were participating in the VCP.
- **Sites Completed under VCP:** As of August 2012, 15 sites were completed under the VCP.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

- The Community Reinvestment Pilot Initiative – DEQ reimburses a private party 70percent of its 'certified cleanup costs,' up to \$150,000 per site. With this structure, the Pilot's benefit caps at a \$215,000 cleanup as follows: DEQ reimburses 70percent (up to \$150,000) and the private party is responsible for the remaining 30percent (\$65,000).
- RIBC RLF low interest loans and sub-grants for financing cleanup of Idaho brownfields. <http://brownfields.idahocog.com>

### Incentives

Voluntary Cleanup Program Tax Incentives—Sites are eligible for a property tax reduction (not to exceed seven years) that is applied to 50percent of the difference in value between the property's pre-remediation and post-remediation land valuation. The exemption may be granted only if the CNTS is in full force and effect for the entire period of exemption, and the site remains in the possession of the owner for the entire exemption period.

### Liability Relief Provisions

COC and CNTS are available under Idaho's VCP. After receiving a COC, a party can receive a CNTS for any claim for environmental remediation under state law resulting from or based upon the release or threatened release of a hazardous substance or petroleum that is the subject of the approved voluntary remediation work plan. The CNTS extends to any current or future owner or operator of the site or portion thereof who did not cause, aggravate or contribute to the release or threatened release.

## Environmental Insurance

Idaho's Petroleum Storage Tank Fund provides underground storage tank (UST) site owners with environmental insurance of \$1,000,000 per tank for \$100 per year, with a \$10,000 deductible.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Participants in DEQ remediation programs, including the VCP, choose between cleaning to established state standards such as the residential use screening levels for petroleum release sites specified in the Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites (IDAPA 58.01.24) which can be found at <http://adminrules.idaho.gov/rules/2012/58/0124.pdf> or cleaning to site-specific standards developed using DEQ's Risk Evaluation Manual and Software, the soon to be released Risk Evaluation Manual for Petroleum Releases, or another DEQ-approved risk evaluation methodology.

### Contaminants Covered

DEQ's Risk Evaluation Manual and Software includes the 185 contaminants most frequently encountered in Idaho, with the ability to add additional contaminants on a site-specific basis. Evaluation and cleanup of petroleum release sites is specifically addressed using the Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites (IDAPA 58.01.24) which can be found at <http://adm.idaho.gov/adminrules/rules/idapa58/0124.pdf>. Guidance to implement these rules is soon to be released.

### Institutional Controls (IC)

Both the VCP and the Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites (IDAPA 58.01.24) authorize the use of activity and use limitations, implemented through the use of environmental covenants, when conducting site cleanups under DEQ oversight. The Idaho Legislature enacted the Uniform Environmental Covenants Act in 2006 to facilitate this process. DEQ developed a model environmental covenant for use at sites which are cleaned up under the oversight of DEQ.

- **IC Tracking:** Idaho tracks ICs and environmental covenants through internal processes that are part of the agency's document management system.
- **IC Oversight and Monitoring:** Oversight and Monitoring of ICs is accomplished through a combination of periodic audits of sites by agency staff and self-reporting requirements contained in the environmental covenants applied to a site.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.deq.idaho.gov/waste-mgmt-remediation/brownfields.aspx>

## PROGRAM HIGHLIGHTS

In 2006, the Treasure Valley Institute for Children's Arts (TrICA) purchased a former Methodist church on the National Register of Historic Places in the hopes of cleaning up this historic church within Boise's North End Historic District. TrICA, a 501(c)3 nonprofit contacted IDEQ's Brownfields Response Program and requested a Phase I environmental site assessment in order to quantify the amount of asbestos containing materials and lead based paint containing materials prior to cleaning up the property and remodeling. IDEQ used Section 128(a) Response Program funding to conduct a Phase I that identified areas with lead paint concerns, confirmed the absence of asbestos containing materials, and discovered that an arrest occurred at the property which was tied to methamphetamine consumption and manufacture. Additional assessment confirmed the presence of methamphetamine contamination throughout the church, which had been subjected to various stages of subdivision into residential apartments. TrICA entered into a voluntary remediation agreement with IDEQ's VCP to clean up methamphetamine and lead contamination in the former church. TrICA also applied for and was accepted into one of the open Pilot slots and acquired a loan and sub-grant from the Reuse Idaho Brownfield Coalition's Revolving Loan Fund (RLF). Cleanup was certified in late 2011 and a Pilot rebate of \$150,000 was issued to TrICA in June 2012. TrICA will issue a lump sum payment to the RLF in the amount of the Pilot rebate and is currently fundraising to complete their remodel. To date, remodeling activities include roof and wall stabilization, removal of all walls, floors, and framing not original to the church, replacement of damaged windows, and replacement of the original roof. TrICA expects to be able to occupy the space and begin offering arts instruction to children in the Treasure Valley (Boise and surrounding communities) in 2013.

## OTHER LAND PROGRAMS

### Underground Storage Tanks (UST) Program

<http://www.deq.idaho.gov/waste-mgmt-remediation/storage-tanks/underground-storage-tanks.aspx>

## Brownfields Program / Voluntary Cleanup Program (VCP) Oregon Department of Environmental Quality (ODEQ)

811 SW 6th Avenue  
Portland, OR 97204

<http://www.oregon.gov/DEQ/LQ/>

Contact(s): Annette Dietz, Cleanup Program Coordinator

[dietz.annette@deq.state.or.us](mailto:dietz.annette@deq.state.or.us)

503-229-6258

Gil Wistar, Brownfields Coordinator

[wistar.gil@deq.state.or.us](mailto:wistar.gil@deq.state.or.us)

503-229-5512

## Brownfields Financing Programs

Business Oregon

775 Summer St. NE, Suite 200

Salem, OR 97301

<http://www.oregon4biz.com/>

Contact(s): Karen Homolac, Brownfields Program Specialist

[karen.homolac@biz.state.or.us](mailto:karen.homolac@biz.state.or.us)

503-986-0191

### Program Overview

- Brownfields Program
- Cost to Enter VCP: \$2,500, + oversight fees if DEQ costs exceed \$2,500
- Liability Relief Provisions
- Brownfields Redevelopment Authorities

## PROGRAM

The Voluntary Cleanup Program (VCP) has two pathways: the Voluntary Cleanup Pathway and the Independent Cleanup Pathway (ICP). The Voluntary Cleanup Pathway provides ongoing project support from an Oregon Department of Environmental Quality (ODEQ) project manager for No Further Action (NFA) determinations, preliminary assessment review, soil cleanup standards, report/document review, operable unit approach where a section of the site may be redeveloped while cleanup is still occurring on other sections, technical assistance and regulatory guidance, negotiated scope of work, budget estimates for ODEQ oversight costs, Prospective Purchaser Agreements (PPA), and public participation. The ICP, in which an ODEQ project manager reviews site activities after they are completed and a report is prepared, is an alternative to the Voluntary Cleanup Pathway for sites ranked low or medium priority for further investigation or cleanup.

<http://www.deq.state.or.us/lq/cu/brownfields/index.htm> and <http://www.deq.state.or.us/lq/cu/voluntarycu.htm>

- **Funding Source(s) for the Program:** Cost recovery from project participants and federal grants.
- **Cost to enter program or fees for service:** PPA application requires \$2,500 deposit to ODEQ to begin formal negotiation of the agreement. No deposit for VCP required with Intent to Participate Form, but \$5,000 deposit when project manager is assigned. ICP requires a \$1,500 deposit. Once projects become active, ODEQ charges VCP and ICP participants on an hourly basis for project oversight.
- **Sites Enrolled in VCP:** As of July 2012, 1,490 sites have entered the VCP since its inception in 1991.
- **Sites Completed under VCP:** As of July 2012, 862 sites received NFA letters through the VCP.
- **PPAs:** From 1996 through July 2012, ODEQ issued 122 PPAs.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants and loans are available to assist with brownfields reuse projects.

- EPA has capitalized the Oregon Coalition Brownfields Cleanup Fund with over \$3.5 million; the fund is primarily a low-interest loan program available to eligible communities or private sector applicants for cleanup/non-time-critical removals. Limited grant assistance is available to eligible communities or nonprofit entities following financial review. The Oregon Business Development Department (OBDD) serves as lead agency and fund manager on behalf of a coalition of partners.
- The state-funded Brownfields Redevelopment Fund, managed by OBDD, provides a direct loan program to both public and private entities seeking financial assistance for assessment through cleanup of brownfields. Limited technical assistance grants are available to public entities to either complete Phase I or II environmental site assessments (ESA) on publicly-owned sites or that are undertaking integrated planning activities involving brownfield properties.

- The state-funded Special Public Works Fund, also managed by OBDD, provides technical assistance grants and loans to municipalities for site assessments and cleanup on publicly-owned industrial brownfield properties seeking certification through the state's Industrial Lands Certification Program.
- The Oregon Capital Access Program, managed through OBDD, offers loan portfolio insurance for environmental actions and brownfields redevelopment projects.
- The Oregon Dry Cleaner Fund, administered by ODEQ, pays for assessment and cleanup at qualifying dry cleaner sites. To manage limited funding, sites are prioritized based on human health and environmental threat.

### Liability Relief Provisions

Oregon DEQ's VCP issues NFAs for sites demonstrated to present no unacceptable risk to human health or the environment. A PPA is a legally binding agreement between ODEQ and a prospective purchaser (or lessee), which limits the purchaser's liability to ODEQ for environmental cleanup of the property in return for a commitment by the purchaser to undertake and/or fund site activities that provide a "substantial public benefit." The PPA is authorized through state statute and administrative rule to provide liability protection. PPAs that protect potential buyers/lessees from third party liability are also available from ODEQ. PPAs do not provide liability protection from the federal government or from any activities that may cause new contamination after the property is purchased or leased.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Applicant has a choice of approach (i.e., removal or institutional controls), to protect public health and the environment. The same standard of site-specific acceptable risk, which includes protection of ecological receptors, must always be met.

### Contaminants Covered

Petroleum products (including methane), hazardous waste, lead paint, polychlorinated biphenyls (PCBs), and Comprehensive Environmental Response Compensation and Liability Act (CERCLA) contaminants can be addressed through the VCP.

### Institutional Controls (IC)

In Oregon, institutional or engineering controls are used when risks of exposure to hazardous substances can be blocked effectively by having legal or administrative measures in place. Typically, ICs will be an element in the Record of Decision, the Consent Order, or other decision document. <http://www.deq.state.or.us/lq/cu/controls.htm>

- **IC Tracking:** Properties with ICs remain on ODEQ's public Environmental Cleanup Site Information (ECSI) database, Confirmed Release List, and Inventory – as long as the institutional control remains in effect.
- **IC Oversight and Monitoring:** Monitoring and periodic review will be part of the institutional control to ensure that it is working. The extent and frequency of monitoring and periodic reports will vary with the project. There may be a certain amount of random monitoring of the IC (e.g., due diligence inquiries prior to property transfers), but periodic review by ODEQ should be a part of the IC and the selected remedy.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp?listtype=lis&listtitle=Environmental+Cleanup+Sitepercent20Information+Database>

## PROGRAM HIGHLIGHTS

In early 2012, ODEQ initiated an outcome-based management approach, designed to improve Cleanup Program operations in response to complaints from program participants (i.e., poor communications between ODEQ and responsible parties (RP) on process and criteria to get to site closure, the time to complete projects, and ODEQ costs). A workgroup developed strategies to address these issues. This work is ongoing, but key focus areas are as follows.

### Communications

- Encourage proactive collaboration between ODEQ and RPs on strategies to move projects to closure decisions early in the process.
- Develop a common vision on project elements, scope and timeline early in the process and use adaptive management to modify and process steps as needed during the life of the project.

### Cost Management

- Establish clearer guidelines for project team members' roles in supporting the project manager, to reduce the overall charges to a project.
- Ask project managers to review charges to their projects within the first week of each month, to ensure that any incorrect charges are corrected prior to invoicing.
- Ask project managers to communicate with RPs on a regular basis on project charges, to reduce the possibility of "surprise" invoices.

### **Process Efficiencies**

- Prepare clearer decision criteria for ecological risk assessments.
- Develop guidelines for use of removals over formal remedial-action decisions, to expedite cleanup and redevelopment of vacant or underused properties.
- Create an electronic document/issue library for staff research on past cleanup decisions and rationale, to help project managers tackle unfamiliar topics.

### **OTHER ODEQ LAND QUALITY PROGRAMS**

#### **Tanks Program**

<http://www.deq.state.or.us/lq/tanks/index.htm>

#### **Dry Cleaning Program**

<http://www.deq.state.or.us/lq/cu/drycleaner/index.htm>

#### **Orphan Sites Program**

<http://www.deq.state.or.us/lq/cu/orphans.htm>



## Voluntary Cleanup Program (VCP)

Department of Ecology (Ecology)  
P.O. Box 47600  
Olympia, WA 98504-7600  
<http://www.ecy.wa.gov/programs/tcp/cleanup.html>

Contact(s): Nnamdi Madakor P.G., P.HG.  
VCP Statewide Coordinator  
360-407-7244

## Ecology Brownfield Program

Department of Ecology (Ecology)  
P.O. Box 47600  
Olympia, WA 98504-7600  
[http://www.ecy.wa.gov/programs/tcp/brownfields/brownfields\\_hp.html](http://www.ecy.wa.gov/programs/tcp/brownfields/brownfields_hp.html)

Contacts: John Means  
Brownfields Program Manager  
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## Brownfields Redevelopment Loan Fund

Department of Commerce  
P.O. Box 42525  
Olympia, WA 98504  
<http://www.cted.wa.gov>

Contact(s): Bill Mandeville  
Brownfields Coordinator  
360-725-3051

### Program Overview

- Brownfields Program
- Cost to Enter the Program: Oversight fees
- Liability Relief Provisions
- State Remedial Action Grants
- Integrated Planning Grants

## PROGRAM

The development of Washington's brownfields program began with the adoption of the Model Toxics Control Act (MTCA), a citizen-mandated law originally enacted through a voter's initiative that governs cleanup of hazardous waste sites in Washington. Cleanup standards under MTCA include appropriate cleanup levels for industrial sites. The brownfields program itself is not defined by statute or rule, however, Washington State has a cooperative approach to brownfields cleanup and redevelopment. In addition to assistance, parties conducting cleanups can seek private consultants, the state provides technical assistance, grants, and a revolving loan program. <http://www.ecy.wa.gov/programs/tcp/cleanup.html> and [http://www.ecy.wa.gov/programs/tcp/brownfields/brownfields\\_hp.html](http://www.ecy.wa.gov/programs/tcp/brownfields/brownfields_hp.html)

- **Funding Source(s) for the Program:** Federal grants and state grants.
- **Cost to enter program or fees for service:** For the Voluntary Cleanup Program (VCP), monthly billing of charges incurred by Ecology during the previous month based on hourly rates of staff used to provide services.
- **Sites Enrolled in VCP:** As of April 2012, 4,346 total VCP sites.
- **Sites Completed under VCP:** As of April 2012, 2,283 No Further Action (NFA) determinations have been issued.

## FINANCIAL ELEMENTS

### Assessment and Cleanup Funding

A variety of grants, loans and technical assistance are available to assist with brownfields reuse projects.  
<http://www.ecy.wa.gov/programs/tcp/paying4cu/paying4cu.html>

### Incentives

- Tax abatements
- Business and Occupation (B&O) tax credit for research and development of environmental technologies
- Federal Brownfields Tax Incentive
- Tax credits (certain business expansions)

## Liability Relief Provisions

- **Covenants Not to Sue** – Under state law, and subject to certain conditions and limitations, when ownership or operation of property is transferred, any Covenant Not To Sue and contribution protection given to the prior owner apply equally to successor owners and operators.
- **Lender Liability Exemption** – State law grants lenders an exemption from liability, subject to certain conditions and limitations, while they hold an ownership interest in a facility, primarily to protect a security interest.

## PROGRAM ELEMENTS

### Methods/Standards/Controls

Applicant has a choice of cleanup standards, including risk-based standards, although they are not based on Risk-Based Corrective Action. [http://www.ecy.wa.gov/programs/tcp/policies/pol\\_main.html](http://www.ecy.wa.gov/programs/tcp/policies/pol_main.html)

### Contaminants Covered

The program does not restrict on basis of contaminants.

### Institutional Controls (IC)

ICs are necessary as part of the cleanup if:

- Hazardous substances remain at the site at concentrations that exceed cleanup levels.
- Conditional points of compliance are established to measure compliance with cleanup levels.
- Cleanup levels are established based on land or resource uses that are not the uses that require the most protective cleanup levels (e.g., industrial land use).
- The department determines such controls are necessary to protect human health and the environment or the integrity of the cleanup.

Washington has sustainable land use planning requirements defined through the Growth Management Act such as urban growth boundaries.

- **IC Tracking:** ICs are tracked in the Integrated Site Information System Web reporting database.
- **IC Oversight:** When ICs are necessary, environmental covenants are usually used to impose those controls on a parcel of real property.
- **IC Monitoring:** Confirmation monitoring and five year reviews are also used and may provide a basis for reopeners in a Consent Decree or a basis for rescinding a VCP NFA opinion for a site.

The following Web address is a direct link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks ICs. This link also provides additional information regarding contaminated sites in the state.

<http://www.ecy.wa.gov/programs/tcp/sites/SiteLists.htm>

## PROGRAM HIGHLIGHTS

Washington's Department of Ecology's Integrated Planning Grants provide up to \$200,000 to local governments without requiring local matching funds. These grants allow local governments to conduct due diligence on a brownfield and create a well-developed strategy for cleanup and redevelopment before investing local funds. Integrated plans establish a vision for a contaminated property's future use that energizes the redevelopment effort and drives the cleanup process. Integrated plans outline a strategy to solve multiple problems that stem from contamination. The plan may address habitat restoration, recreational opportunities, and infrastructure development as part of the overall cleanup process. The plan would also include funding strategies that leverage multiple grant and loan opportunities to carry a project through to completion.

### Eligible Integrated Planning Grant Activities

- Redevelopment planning
- Environmental site characterization
- Land use and regulatory analysis
- Economic and fiscal analysis
- Administrative costs

**Who is Eligible?** The grant applicant must be a local government. Priority and preference will be given to local governments that have not previously received a remedial action grant or meet the disadvantaged communities' criteria to this approval.

<http://www.ecy.wa.gov/biblio/1007012.html>

To complement the Integrated Planning Grants, Ecology's "Guide to Leveraging Brownfield Redevelopment for Community Revitalization" and Brownfield Planning Workshops provide an opportunity for training and leadership on the cleanup and redevelopment of brownfields. Often these properties are former gas stations, industrial properties, or similar sites where past use of chemicals has created a concern about environmental liability. The cleanup and redevelopment of these properties is an important strategy for revitalizing communities, creating jobs and protecting the environment. In a typical workshop, attendees hear about how other communities have succeeded or struggled with economic revitalization. In this workshop, participants play the role of decision-maker and learn by doing. The workshops are composed of an interactive small group planning session to address cleanup and redevelopment of a typical brownfield. Participants are provided with a guidebook with basic information to lead a redevelopment planning process and make key decisions. Experts in the fields of economics, environmental science, land use and contamination regulation, and funding are on hand to support participants the exercise. The planning process is simulated, but the case study is a real property. In the real world, redevelopment projects can take years and large amounts of funding. In this simulation, participants are able to walk through the major planning steps in four hours and gain information and experience so that they can promote and lead successful revitalization projects in their own communities.

#### **OTHER LAND PROGRAMS**

##### **Underground Storage Tanks (UST) Program**

<http://www.ecy.wa.gov/programs/tcp/ust-lust/tanks.html>

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# APPENDIX

Region	State	Brownfields Program	Fee to Enter Program	MOA with EPA	Liability Relief Provisions	Tax Incentives	Grantee or Technical Assistance	Environmental Insurance	Licensed Environmental Professional Program	Brownfields Redevelopment Authorities (or Similar)	Institutional Controls Program or Processes
1	<a href="#">Connecticut</a>	✓	✓		✓	✓	✓		✓		✓
	<a href="#">Maine</a>	✓	✓		✓		✓			✓	✓
	<a href="#">Massachusetts</a>	✓	✓		✓	✓	✓	✓	✓	✓	✓
	<a href="#">New Hampshire</a>	✓	✓		✓	✓	✓				✓
	<a href="#">Rhode Island</a>	✓	✓	✓	✓	✓	✓			✓	✓
	<a href="#">Vermont</a>	✓	✓	✓	✓	✓	✓	✓		✓	✓
2	<a href="#">New Jersey</a>	✓	✓		✓	✓	✓			✓	✓
	<a href="#">New York</a>	✓	✓		✓	✓	✓				✓
	<a href="#">Puerto Rico</a>	✓			✓						
	<a href="#">Virgin Islands</a>	✓	✓			✓					
3	<a href="#">Delaware</a>	✓	✓	✓	✓	✓				✓	✓
	<a href="#">District of Columbia</a>	✓	✓		✓	✓					
	<a href="#">Maryland</a>	✓	✓	✓	✓	✓	✓				✓
	<a href="#">Pennsylvania</a>	✓	✓	✓	✓	✓	✓			✓	✓
	<a href="#">Virginia</a>	✓	✓	✓	✓	✓					
	<a href="#">West Virginia</a>		✓		✓		✓		✓	✓	✓
4	<a href="#">Alabama</a>	✓	✓		✓	✓	✓				✓
	<a href="#">Florida</a>	✓		✓	✓	✓					✓
	<a href="#">Georgia</a>	✓	✓		✓	✓					✓
	<a href="#">Kentucky</a>	✓	✓		✓	✓				✓	✓
	<a href="#">Mississippi</a>	✓	✓		✓	✓	✓				✓
	<a href="#">North Carolina</a>	✓	✓		✓	✓					✓
	<a href="#">South Carolina</a>	✓	✓		✓	✓	✓				✓
	<a href="#">Tennessee</a>		✓		✓	✓	✓				✓
5	<a href="#">Illinois</a>	✓	✓	✓	✓		✓				✓
	<a href="#">Indiana</a>	✓	✓	✓	✓	✓					✓
	<a href="#">Michigan</a>	✓	✓	✓	✓	✓			✓		✓
	<a href="#">Minnesota</a>	✓	✓	✓	✓		✓				✓
	<a href="#">Ohio</a>	✓	✓		✓	✓	✓				✓
	<a href="#">Wisconsin</a>	✓	✓	✓	✓	✓	✓	✓			✓

Region	State	Brownfields Program	Fee to Enter Program	MOA with EPA	Liability Relief Provisions	Tax Incentives	Grantee or Technical Assistance	Environmental Insurance	Licensed Environmental Professional Program	Brownfields Redevelopment Authorities (or Similar) Program or Processes
6	<a href="#">Arkansas</a>	✓		✓	✓					
	<a href="#">Louisiana</a>	✓	✓	✓	✓					✓
	<a href="#">New Mexico</a>	✓	✓	✓	✓					✓
	<a href="#">Oklahoma</a>	✓	✓	✓	✓	✓	✓			✓
	<a href="#">Texas</a>	✓	✓		✓	✓	✓			✓
7	<a href="#">Iowa</a>	✓	✓	✓	✓	✓	✓			✓
	<a href="#">Kansas</a>	✓	✓	✓	✓	✓	✓			✓
	<a href="#">Missouri</a>	✓	✓	✓	✓	✓	✓			✓
	<a href="#">Nebraska</a>		✓	✓						✓
8	<a href="#">Colorado</a>	✓	✓	✓	✓		✓		✓	✓
	<a href="#">Montana</a>	✓			✓		✓			✓
	<a href="#">North Dakota</a>	✓			✓		✓			✓
	<a href="#">South Dakota</a>	✓			✓		✓			✓
	<a href="#">Utah</a>	✓	✓		✓					✓
	<a href="#">Wyoming</a>	✓	✓	✓	✓		✓			✓
9	<a href="#">American Samoa</a>	✓							✓	✓
	<a href="#">Arizona</a>	✓	✓		✓		✓			✓
	<a href="#">California</a>	✓	✓		✓		✓			✓
	<a href="#">Guam</a>	✓					✓		✓	
	<a href="#">Hawaii</a>	✓	✓		✓		✓			✓
	<a href="#">Nevada</a>	✓	✓		✓					✓
	<a href="#">Northern Mariana Islands</a>	✓							✓	✓
10	<a href="#">Alaska</a>	✓			✓		✓			✓
	<a href="#">Idaho</a>	✓	✓		✓	✓	✓	✓		✓
	<a href="#">Oregon</a>	✓	✓		✓		✓		✓	✓
	<a href="#">Washington</a>	✓	✓		✓	✓	✓			✓



United States  
Environmental Protection  
Agency

Office of Solid Waste  
and Emergency Response

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[www.epa.gov/brownfields](http://www.epa.gov/brownfields)