



The Brownfields Grant Program and Opportunities for Revitalization of RCRA Sites

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Small Business Liability Relief & Brownfields Revitalization Act

The Law promotes brownfields revitalization by:

- Expanding Funding for assessment and cleanup
- Clarifying Liability
- Strengthening Federal partnerships with State and Tribal Governments



Brownfields Grants Funding

Law authorizes up to \$200 million/year
for:

- Assessment,
- Direct cleanup,
- Revolving loan fund
- Job training



Brownfields Grant Eligibility

- The law defines a brownfield as:

“Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant”



Brownfields Grant Eligibility

The Law adds “Additional Areas” to definition of brownfield site:

- Petroleum-contaminated (UST) sites
- Mine-scarred lands
- Properties contaminated with controlled substances



Brownfields Grant Eligibility

Eligible Entities:

- State, Tribal and local governments
- Quasi-government entities (e.g., regional councils and redevelopment authorities)
- Non-profits for direct cleanup grants
- Private parties eligible for loans from revolving loan funds granted to government entities



Brownfields Grant Eligibility

The Brownfields Law includes some restrictions on the use of grant monies that effect eligibility:

- Grant monies cannot be used to reimburse liable parties for response costs.
- To qualify as a bona fide prospective purchaser, eligible entities must purchase property after January 11, 2002 and conduct all appropriate inquiry prior to purchase.



Brownfields Grant Eligibility

The Law excludes only three types of properties from definition of brownfield:

- NPL Sites
- CERCLA Orders
- Federally-owned facilities



Brownfields Grant Eligibility

The Law expands funding eligibility to certain properties where there is federal involvement, but requires property-specific determinations for eligibility:

- RCRA-permitted sites
- Superfund removals
- UST Trust fund sites
- Sites with permits under other environmental statutes

Property-Specific Determinations



RCRA permitted sites are eligible for brownfields grants.

RCRA-permitted sites must apply for a property-specific determination to obtain funding.



Property-Specific Determinations

EPA may award a brownfields grant to an eligible entity for a RCRA-permitted site, if the Agency determines that financial assistance will:

- Protect human health and the environment; and
- Promote economic development, or
- Enable the creation of, preservation of, or addition to greenspace



Brownfields Grants and RCRA Sites

In 2004, EPA announced 265 assessment, cleanup, and revolving loan fund grants to eligible entities from a pool of more than 750 proposals.

In 2003 EPA awarded over 200 assessment, cleanup, and revolving loan fund grants to eligible entities, from a pool of over 700 applicants and 1,300 proposals.

FY03 was the first year that EPA could award brownfields grants to RCRA-permitted sites.



Brownfields Grants and RCRA Sites

In the first year of eligibility, 2003, EPA awarded brownfields grants to twelve applicants that included requests to address RCRA sites in their brownfields grant application.

In 2004, EPA announced brownfields grants to nine applicants that included requests to address RCRA sites in their brownfields grant application



Liability Clarifications

The Brownfields Law also provides CERCLA liability protections for certain property owners to encourage revitalization of brownfields.

- Innocent Landowners
 - Prospective Purchasers
 - Contiguous Property Owners
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- The Law does not address RCRA Liability



Liability Clarifications

To obtain CERCLA liability protections property owners must:

- Conduct all appropriate inquiry
- Take reasonable steps to stop on-going releases
- Undertake due care
- Comply with land use restrictions
- Not compromise integrity of institutional controls
- Provide EPA access and information



Liability Clarifications

EPA has issued guidance on:

- Prospective purchaser agreements
- Reasonable care provisions
- Definition of eligible response site (enforcement bar for sites enrolled in state VCP programs)
- Windfall Lien provisions



State and Tribal Response Programs

The Brownfields Law authorizes \$50 million for States and Tribes

Funds can be used to:

- Establish or enhance response programs
- Capitalize revolving loan funds
- Develop insurance mechanisms
- Conduct site-specific oversight
- Develop institutional controls



EPA Brownfields Program

Four Goals:

- Protecting the environment
- Partnering for success
- Strengthening the marketplace
- Sustaining property reuse



EPA Brownfields Program

Learn more at:

- Our website: www.epa.gov/brownfields