



EPA's Brownfields in New England

- Land and Community Revitalization •

Brownfields

Brownfields & the BUILD Act

September 2019



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What is a Brownfield?

“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.”

- The term “brownfields” is often used to describe a wide range of federal, state, and non-regulated sites.
- Cleaning up and reinvesting in these properties protects the environment, reduces blight and takes development pressures off greenspace and working lands.



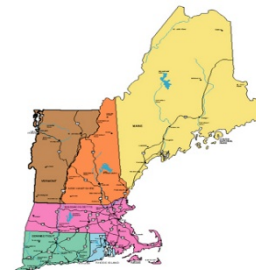
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Summary of Brownfields Successes

*Leveraged
Activities in
New England*

- \$444 million in EPA brownfields grants awarded to New England communities
- 3,061 sites have been assessed with EPA brownfields grant funds
- 424 Sites cleaned up
- 21,110 jobs leveraged
- Over \$3.2 billion leveraged from cleanup, construction, and redevelopment of brownfields
- Source: EPA ACRES



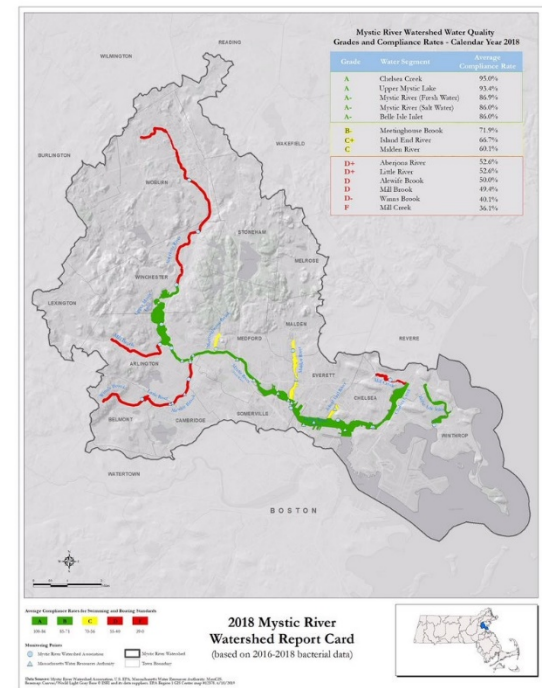


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Mystic River Watershed Investments

- To date EPA New England has invested in excess of \$9 Million assessment & cleanup funding in communities & organizations in the Watershed
- These Include: Chelsea, Everett, Medford, The Mystic Valley Development Corporation & Somerville.





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Federal Liability Protection



FIRST – CERCLA liability – strict, joint and severable, retroactive

THEN – 2002 amendment to CERCLA established the national brownfields program.

- added **new landowner liability protections** (and clarified the existing innocent landowner protection)
- **Provided funding for grants** for the assessment and cleanup of brownfields
- Under the above, **some municipal liability protections existed**, particularly in cases of “involuntary acquisition” where continuing obligations to properly maintain and restrict use of the site were met.

NOW – BUILD (Brownfields Utilization, Investment, and Local Development) Act - March 2018

- Liability protections were **expanded and clarified**



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Federal Liability Relief

- Liability Exemption for acquisition through seizure for tax delinquency, bankruptcy, abandonment, or other law enforcement
- Liability Exemption for State or Local government properties acquired prior to 1/11/02: cannot have caused or contributed to contamination (BUILD Act)
- Liability Defense for Bona Fide Prospective Purchase (BFPP)
 - Rule #1: Have an AAI/ASTM Phase I Assessment done prior to purchase (note the shelf life!)



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All Appropriate Inquiry (AAI)



Federal Liability Relief

AAI before ownership can provide some **liability protection.**

(for an innocent landowner, a contiguous property owner, or a bona fide prospective purchaser)

- Must not have an “affiliation” with a liable party
- Must not have caused or contributed to any contamination on site
- **Within a year before acquisition** there must have been an ASTM/AAI Phase I report done by a qualified environmental professional.
 - Key components must be **updated if the report is older than 6 months.**
 - Property acquisition includes properties acquired as gifts or through zero-price transactions.

For More Information:

<https://www.epa.gov/brownfields/brownfields-all-appropriate-inquiries>



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Continuing Obligations

Federal Liability Issues

- There are other things you must do as well after acquiring the property:
 - Exercise appropriate care by taking reasonable steps which includes:
 - Stopping any continuing releases
 - Preventing any threatened future releases
 - Preventing or limiting human or environmental exposure to the site.
 - Comply with land use restrictions.
 - Comply with information requests.



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Federal Funding

- Paying attention and doing these things ensures a higher probability of success when you apply for an EPA cleanup grant or try to borrow funding through an EPA revolving loan fund grant.
- **Speaking about Money....**



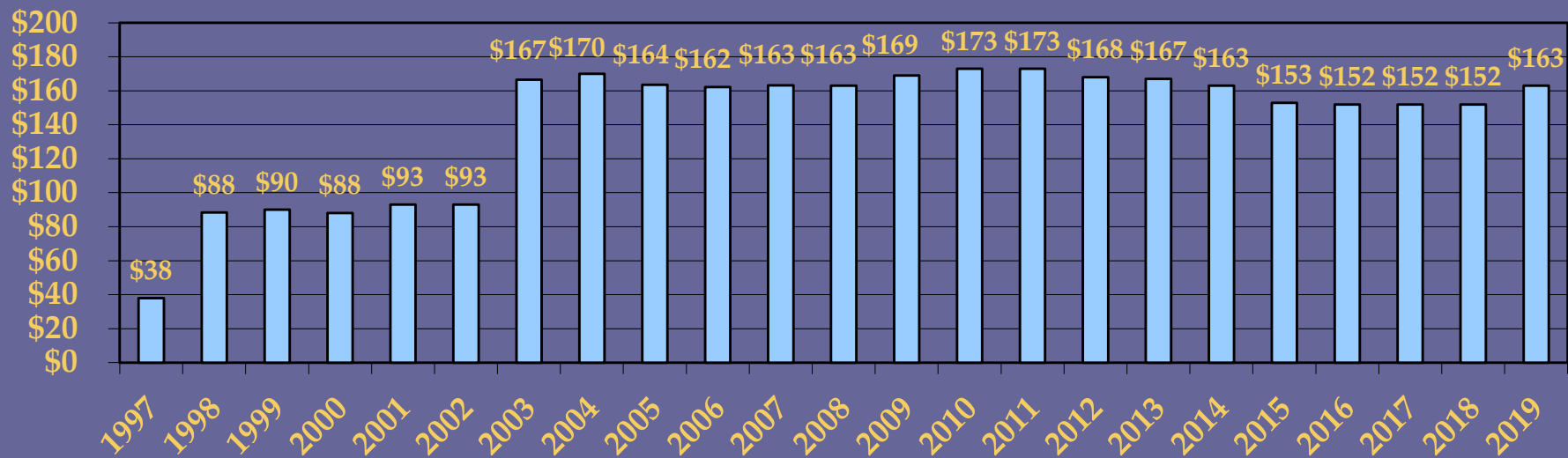


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Annual Brownfields General Appropriation

Fiscal Years 1997 - 2019 in millions of dollars



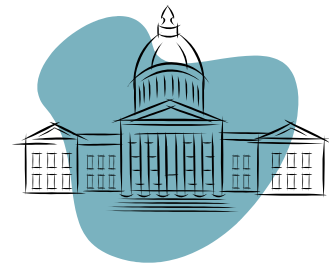


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Eligible Entities for EPA Grants

- Eligible Entities
 - States
 - General Purpose Unit of Local Government
 - Tribes
 - Redevelopment Agencies
 - Land Clearance Authority
 - Councils of Government
 - Non-profits (BUILD Act)
 - 501c3
 - LLCs comprised of 501c3's
 - LLPs comprised of 501c3's
 - Community development entities per 45D(c)(1)

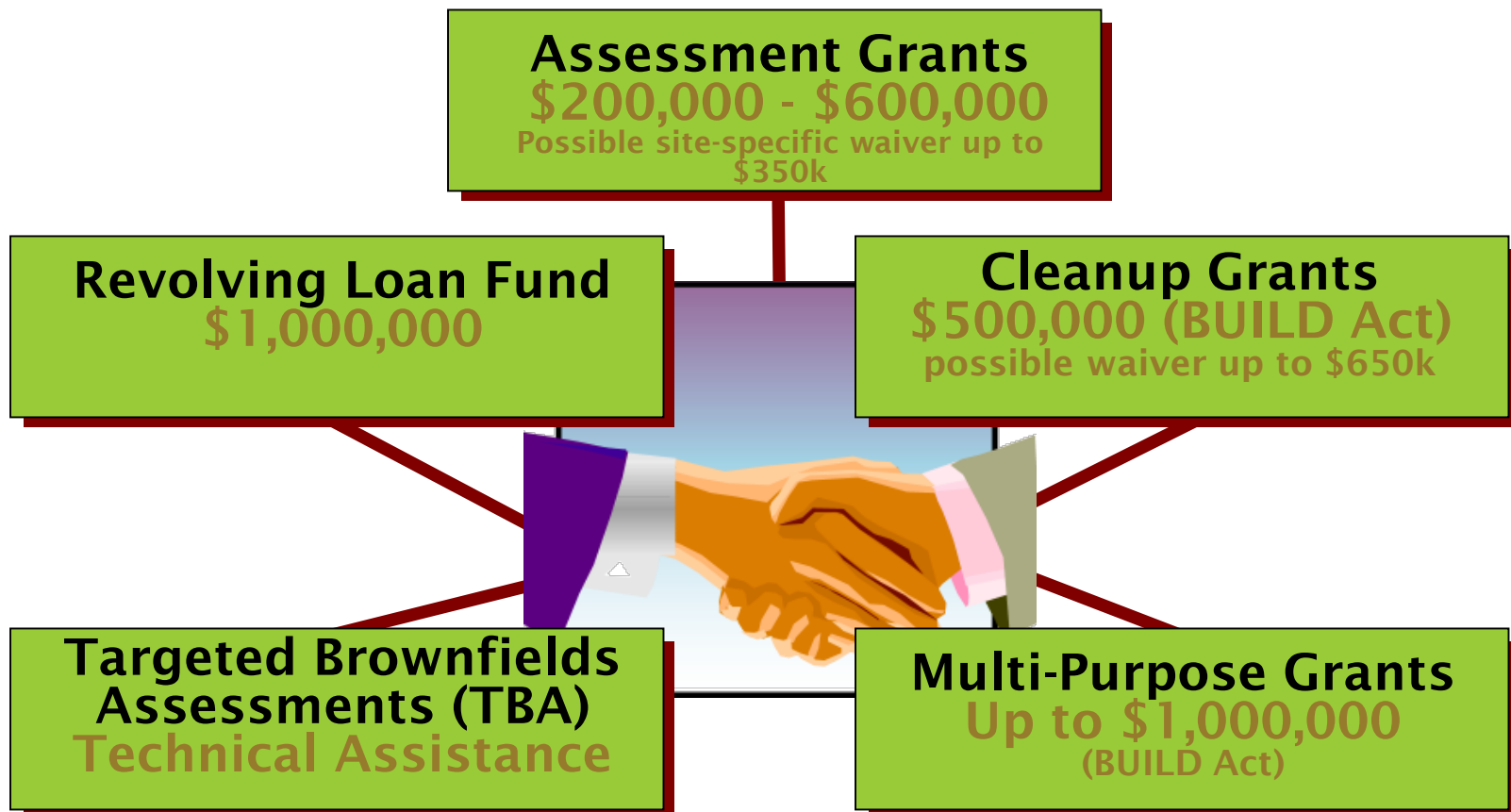




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Assistance and Cooperative Agreements

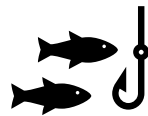




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Potential Roles for Municipal Partners



- Acquisition and long-term ownership
- Acquisition and interim ownership with subsequent transfer to third party
- Leasing by municipality
- Acquisition and “simultaneous” transfer to a third party
- Collaboration with the property owner
- Transfer tax liens
- Incentives to promote redevelopment





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Other BUILD Act Changes

- Petroleum Eligibility Criteria - “Relatively Low Risk” requirement removed
- Indirect Costs - Now allowed up to 5% of grant
- BFPP Definition - Expanded to include those who have tenancy or leasehold interests in the facility
- Small Community Technical Assistance Grants
- Up to \$20k awarded to States/Tribes for technical assistance to small communities (<15k)



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State/Tribal Regulatory Coordination

- EPA coordinates with State/Tribal Environmental Authorities in a number of ways:
 - States approve sites for **petroleum eligibility**.
 - Properties are assessed and cleaned up according to state regulations through **State/Tribal Voluntary Cleanup Programs**.
 - EPA provides States/Tribes with **funding for staff that oversee state response program**.



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Union Station – Springfield, MA

- Historic train station and adjacent hotel **contaminated with metals, VOCs, and petroleum**
- City of Springfield invested **\$203,000 in EPA Assessment** funding and Springfield Redevelopment Authority received **\$400k in EPA cleanup** funding
- **Leveraged over \$90M** in federal, state, and local funding and won **Phoenix Award** at 2017 Brownfields Conference

Brownfields
Success
Story

*Brownfields
Assessment &
Cleanup*





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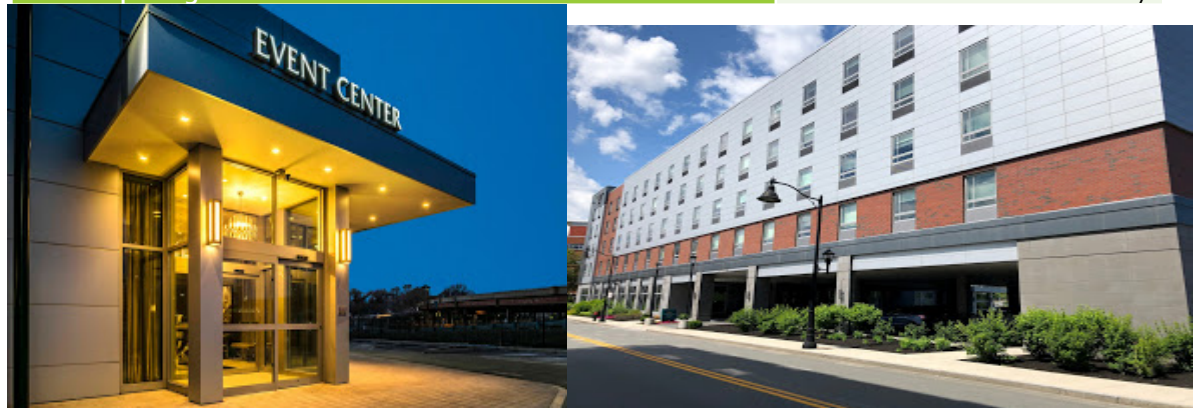
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Homewood Suites (Logan Airport Hotel) Chelsea, MA

Brownfields Success Story

Brownfields Assessment & Cleanup

City of Chelsea Acquires the site	1999
Former Lawrence Metals Site Demolition	2000
Site Evaluation	2012
Removal Completed	2014
Site Cleanup Completed	2015
Construction Begins	2016
Grand Opening	2017



EPA Funds	\$6,982,772
City of Chelsea	\$6,750,000
Former Lawrence Metals Factory Corp	\$700,000
MassDevelopment	\$333,000
Lawrenceville LLC	\$33,432,057
Grand Total	\$48,197,829



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Upcoming FY20 Competition

Guidelines anticipated by October 2019 with **proposals due late Nov/early Dec.**

- Guidelines outreach sessions by EPA
- Winners announced spring 2020
- Grants awarded summer 2020
- Funding available to awardees October 2020



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BUILD Act Recap

- **Clarifies municipal liability** exemptions
 - Liability exemption for certain publicly-owned properties acquired **before January 11, 2002**
- **Nonprofits now eligible** for all grants
- **Multipurpose grants** up to \$1M (\$800K this year)
- **Cleanup grant cap raised** to \$500K (\$650K with waiver)
- **Small community technical assistance** grants for states & tribes
- **Indirect costs allowed** (up to 5%)



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Opportunity Zones

added to the tax code
by the Tax Cuts and
Jobs Act on December
22, 2017

- An Opportunity Zone (OZ) is a state-nominated and IRS certified **census tract** in or near a low income community.
- Investors with capital gains tax liabilities may receive favorable tax treatment for investing in “**qualified opportunity funds**” (QOFs).
- Communities and developers **need to attract QOF investment** to their project or OZ.
 - Brownfield resources could be used on sites within OZ census tracts to help attract QOFs to projects.
- It is estimated QOFs will meet up to a third of project costs.
 - **Site assessment and cleanup costs could be eligible QOF investments** if costs prepare the site for vertical development and economic reuse.
- Projects in Opportunity Zones may get **preference in selection for federal grants.**



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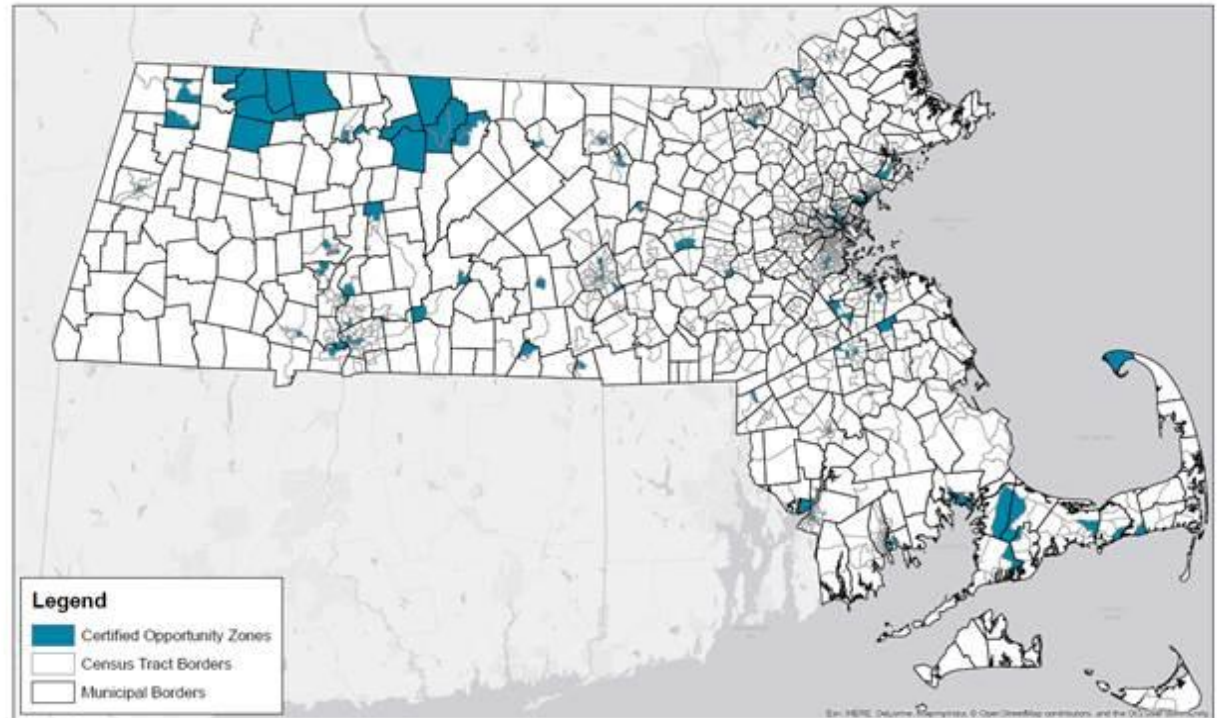
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Opportunity Zones in Mass

More info on the MA Opportunity Zone Website:

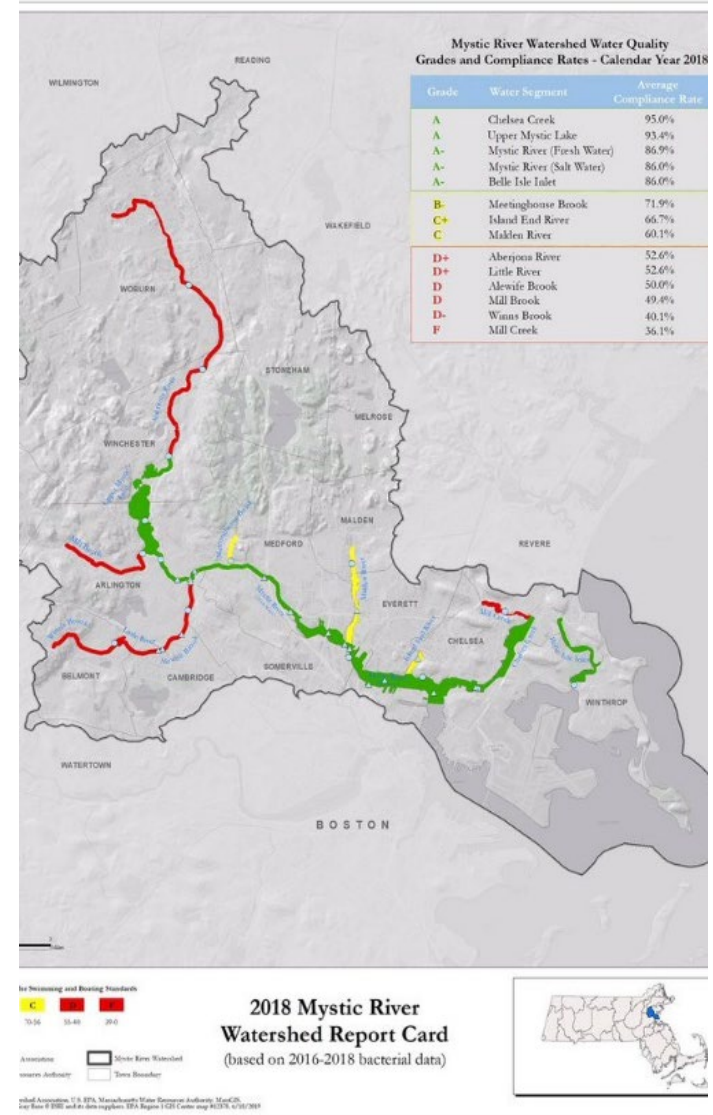
www.mass.gov
Search Opportunity Zones

Certified Opportunity Zones in Massachusetts



Opportunity Zones in the Mystic River Watershed

- Cambridge
- Chelsea
- Everett
- Malden
- Medford
- Somerville
- Winthrop





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Available Resources

➤ EPA Region 1 Brownfields

<https://www.epa.gov/brownfields/brownfields-and-land-revitalization-connecticut-maine-massachusetts-new-hampshire-rhode>

➤ EPA Headquarters

<https://www.epa.gov/brownfields>

**REGISTRATION
OPEN!**

December 11-13, 2019
with pre-conference
programming December 10

Join us at the
**LOS ANGELES
CONVENTION CENTER**



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Visit brownfields2019.org for
more information!