



STATE BROWNFIELDS AND VOLUNTARY RESPONSE PROGRAMS **2017**



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INTRODUCTION

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—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.

More information on Cleaning Up Brownfields under State Response Programs – Getting to 'No Further Action' can be found at: <https://www.epa.gov/brownfields/cleaning-brownfields-under-state-response-programs-getting-no-further-action>.

ELEMENTS IN THE PROGRAM SUMMARIES

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.

TABLE OF CONTENTS

EPA REGION 1	4
Connecticut	5
Maine	6
Massachusetts	7
New Hampshire.....	8
Rhode Island.....	9
Vermont	10
EPA REGION 2	11
New Jersey	12
New York.....	13
Puerto Rico.....	14
Virgin Islands	14
EPA REGION 3	15
Delaware.....	16
District of Columbia.....	17
Maryland.....	18
Pennsylvania	19
Virginia	20
West Virginia.....	21
EPA REGION 4	22
Alabama.....	23
Florida.....	24
Georgia.....	25
Kentucky.....	26
Mississippi	27
North Carolina	28
South Carolina	29
Tennessee.....	30
EPA REGION 5	31
Illinois.....	32
Indiana.....	33
Michigan.....	34
Minnesota	35
Ohio.....	36
Wisconsin	37

EPA REGION 6..... 38
Arkansas..... 39
Louisiana..... 40
New Mexico 41
Oklahoma..... 42
Texas..... 44
EPA REGION 7..... 45
Iowa..... 46
Kansas..... 47
Missouri..... 48
Nebraska..... 49
EPA REGION 8..... 50
Colorado 51
Montana 52
North Dakota 53
South Dakota 54
Utah..... 55
Wyoming..... 56
EPA REGION 9..... 57
Arizona 58
California..... 59
Hawaii 60
Nevada 61
American Samoa..... 62
Guam 62
Northern Mariana Islands..... 63
EPA REGION 10 64
Alaska..... 65
Idaho 66
Oregon 67
Washington 68

EPA REGION 1

CONNECTICUT • MAINE • MASSACHUSETTS
NEW HAMPSHIRE • RHODE ISLAND • VERMONT

REGION 1 PROGRAM HIGHLIGHTS

EPA Region 1 states have used Section 128(a) Response Program funding to conduct assessments on over 330 properties, clean up 52 properties, create over 50 jobs, and leverage nearly \$25 million.

In 2017, communities across New England will receive \$8 million from EPA to help revitalize former industrial and commercial sites, transforming them from abandoned and blighted properties into community assets.

Many New England urban communities are now reclaiming their waterfronts and creating vibrant residential and mixed-use communities with waterfront access and open space through rezoning.

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

79 Elm Street
Hartford, CT 06106-5127
www.ct.gov/deep

Contacts:

Voluntary Remediation

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Brownfields

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PROGRAM DETAILS

- **Funding Source(s) for the Program:**
State funds (approximately 65%) and federal grants (approximately 35%).
- **Cost to enter program or fees for service:**
Varies: Voluntary Remediation Program - \$3,250. Brownfields Remediation and Revitalization Program - 5% of the assessed value of the land (without improvements) based on most recent municipal grand list.
- **Sites Enrolled in VCP:** As of January 2017, more than 530 sites have enrolled in the Voluntary Response Programs.
- **Sites Completed under VCP:** As of January 2017, more than 68 sites were completed under the Voluntary Response Programs.

PROGRAM

Connecticut provides a variety of voluntary remediation and brownfields programs and incentives to expedite the cleanup and reuse of contaminated properties.

Financial Elements

Assessment and Cleanup Funding

The Office of Brownfield Remediation and Development is the state's one stop shop for financial assistance for Brownfields.
<http://www.ctbrownfields.gov>

Incentives

- Urban and Industrial Sites 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
- 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
- Historic Preservation Tax Credit Program – Provides financial incentives in the form of historic tax credits for the conversion of historic properties.
www.cultureandtourism.org/cct/cwp/view.asp?a=3933&q=430786
- Historic Structures Rehabilitation Tax Credit Program – Provides a tax credit for the conversion of historic properties to residential use.
www.cultureandtourism.org/cct/cwp/view.asp?a=3933&q=331966

Liability Relief Provisions

- Covenants Not to Sue (CNTS) – Two types of CNTS are available: one pursuant to Section 22a-133aa of the Connecticut General Statutes (CGS) and one pursuant to CGS Section 22a-133bb.
http://www.ct.gov/deep/cwp/view.asp?a=2715&q=489000&deepNav_GID=1626#CNTS
- Brownfield Remediation and Revitalization Program – Provides liability relief for certain innocent parties who acquire a brownfield and clean up the property.
http://www.ct.gov/deep/cwp/view.asp?a=2715&q=489000&deepNav_GID=1626#BRRP
- 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.ct.gov/deep/cwp/view.asp?a=2715&q=489000&deepNav_GID=1626#abc
- Municipal Liability Relief Program – Provides relief from state and third party liability for any pre-existing contamination.
http://www.ct.gov/deep/cwp/view.asp?a=2715&q=489000&deepNav_GID=1626#MunicipalBLR

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.
http://www.ct.gov/deep/cwp/view.asp?a=2715&q=324978&deepNav_GID=1626

Program Elements

Methods/Standards/Controls

Remediation standard regulations (Regulations of Connecticut State Agencies [RCSA]) 22a-133k-1 through k-3) were adopted in January 1996, and revised in June 2013.
http://www.ct.gov/deep/cwp/view.asp?a=2715&q=325012&deepNav_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/deep/cwp/view.asp?a=2715&q=325018&deepNav_GID=1626

Other Land Programs

State Superfund Programs

http://www.ct.gov/deep/cwp/view.asp?a=2715&q=325022&deepNav_GID=1626

Significant Environmental Hazard Program

http://www.ct.gov/deep/cwp/view.asp?a=2715&q=324976&deepNav_GID=1626

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

P17 State House Station
Augusta, ME 04333-0017
www.maine.gov/dep/rwm/

Contacts:

VRAP & Brownfields

Nick Hodgkins
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207-592-0882

PROGRAM DETAILS

- **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 June 2017, 127 sites were enrolled in the response programs.
- **Sites Completed under VCP:** As of June 2017, 837 sites completed investigation and remedial action in the response programs.

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>

Financial Elements

Funding for the VRAP is provided through application fees. Applicants conduct and submit investigation reports, remedial work plans and remediation completion reports to the VRAP for review and approval.

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) after the contaminants identified on the property have been cleaned up 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.

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 getting a certificate from the state indicating that cleanup was completed to the state's satisfaction.

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)

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>

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.htm>

Asbestos Disposal Sites

<http://des.nh.gov/organization/divisions/waste/orcb/prs/adsp/index.htm>

MASSACHUSETTS

Brownfields Program Massachusetts Department of Environmental Protection (MassDEP)

One Winter Street, 2nd Floor
Boston, MA 02108

<http://www.mass.gov/eea/agencies/massdep/cleanup/>

Contacts:

Brownfields Coordinator

Rodney Elliott

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617-292-5523

PROGRAM

The Commonwealth of Massachusetts is committed to the cleanup and redevelopment of brownfields properties as a way to stimulate the economy and further attain environmental protection goals. <http://www.mass.gov/eea/agencies/massdep/cleanup/programs/>

Financial Elements

Assessment and Cleanup Funding

A variety of grants, loans, and technical assistance products and services 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. <http://www.massdevelopment.com/financing/specialty-loan-programs/brownfields-redevelopment-fund/>

Incentives

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

<http://www.massdevelopment.com/financing/specialty-loan-programs/brownfields-redevelopment-fund/>

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, but where the owner/developer has committed to clean up and redevelop the property. <http://www.mass.gov/ago/doing-business-in-massachusetts/economic-development/brownfields-covenant-program/>

Licensed Site Professionals

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.

http://public.dep.state.ma.us/LSP_2/lspsearch.aspx

PROGRAM DETAILS

- **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 has achieved a permanent solution. In addition, permit fees apply to some waste site cleanup submittals.
- **Sites Enrolled in VCP:** As of January 2017, more than 44,000 release notifications have been made to MassDEP, with about 4,000 still active. Approximately 1,400 new releases enter the program each year.
- **Sites Completed under VCP:** As of January 2017, 40,000 releases have been closed out. Beginning in 2002, the number of cleanups per year has surpassed the new notifications.

Program Elements

Methods/Standards/Controls

A risk-based regulatory program is in place; the regulations are set forth in the Massachusetts Contingency Plan (MCP). <http://www.mass.gov/eea/agencies/massdep/cleanup/regulations/>

Contaminants Covered

Most 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, poly-aromatic hydrocarbons (PAHs) and polychlorinated biphenyls (PCBs), perchlorate, research department explosives (RDX), and high melting explosives (HMX). Some OHM are exempt from reporting. These OHM are listed in the MCP. <http://www.mass.gov/dep/cleanup/laws/regulati.htm>

Institutional Controls (IC)

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

IC Tracking: AULs are tracked through publicly available databases, and a 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. <http://public.dep.state.ma.us/SearchableSites2/Search.aspx>

Other Land Programs

Hazardous Waste Management

<http://www.mass.gov/eea/agencies/massdep/recycle/hazardous/>

Underground Storage Tanks Program

<http://www.mass.gov/eea/agencies/massdep/toxics/ust/>

Brownfields Program New Hampshire Department of Environmental Services

P.O. Box 95
Concord, NH 03302-0095
<http://des.nh.gov/>

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603-271-2183

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

Financial Elements

Assessment and Cleanup Funding

A variety of grants and loans are available to assist with brownfields assessment, cleanup planning and cleanup. <http://des.nh.gov/organization/divisions/waste/hwrb/sss/brownfields/index.htm>

Incentives

- Brownfield sites are exempt from state hazardous waste generator fees (RSA 147-B:9).
- Municipalities can abate property taxes at brownfield sites (RSA 76:19-a).

Liability Relief Provisions

- Program offers a No Further Action (NFA) letter when active remediation measures are not required, a Certificate of Completion (COC) upon completion of a remedial action with the exception of long-term groundwater monitoring, a Certificate of No Further Action when all environmental health standards have been met, and a Covenant Not to Sue (CNTS) pursuant to the Brownfields Covenant Program.
- "Qualifying holder" provisions of hazardous waste and petroleum statutes provide protection to lenders and municipalities with a mortgage or security interest in a property (e.g., mortgage or tax lien).

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, NHDES established a policy of assigning a staff hydrogeologist or engineer to serve as a brownfields grant liaison. <http://des.nh.gov/organization/divisions/waste/hwrb/sss/brownfields/grantee.htm>

Program Elements

Methods/Standards/Controls

Applicable rules and regulatory authority that serve to guide environmental site investigation and remediation are defined within the New Hampshire Code of Administrative Rules Env-Or 600, Contaminated Site Management and Env-Or 800, Brownfields Program under RSA 147-F. <http://des.nh.gov/organization/divisions/waste/hwrb/sss/brownfields/index.htm>

Additional Guidance Documents may be used for site-specific conditions. <http://des.nh.gov/organization/divisions/waste/hwrb/sss/hwrb/guidance/documents.htm>

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Hazardous Waste Cleanup Fund (HWCF) (20%) and federal grants (80%)
- **Cost to enter program or fees for service:** Brownfields Covenant Program - \$750 application fee and \$4,500 program participation fee
- **Sites Enrolled in VCP:** As of January 2017, 61 sites have enrolled in NH's Brownfields Covenant Program. A total of 264 sites have benefitted from some form of brownfields funding.
- **Sites Completed under VCP:** As of January 2017, 37 program participants have been issued Covenants Not to Sue. Of the 264 sites that have benefitted from brownfields funding, 90 have been closed.

Contaminants Covered

Volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs), metals, polychlorinated biphenyls (PCBs), petroleum products, and asbestos (disposal sites) are all covered.

Institutional Controls (IC)

Activity and Use Restrictions (AURs) are controls on the use of a property that are imposed to protect human health and the environment during and after implementation of a remedial action plan. After completion of active remedial measures, a groundwater management permit (an IC itself) is typically issued to monitor groundwater quality until it meets standards.

IC Tracking: Requires responsible parties (RPs) to submit draft Notices of Activity and Use Restriction to NHDES. Groundwater use is addressed under Groundwater Management Permits. A Notice of Groundwater Management Permit is recorded in the chain of title for each property located within the permit Groundwater Management Zone.

IC Oversight: NHDES reviews and approves all draft Notices of Activity and Use Restrictions prior to recordation in the chain of title for a site.

IC Monitoring: NHDES does not currently have an inspection program for monitoring compliance with Notices of AURs. However, RPs and successor site owners are required to submit self-certification forms to NHDES on a periodic basis to demonstrate continued compliance and awareness of the Notice of AUR. <http://des.nh.gov/organization/divisions/waste/hwrb/sss/brownfields/controls.htm>

The following Web address is a direct link to the state's public database that contains fully searchable information based on site number, site name, project type, address, municipality, owner, and other regulatory fields. <http://des.nh.gov/onestop/index.htm>

Related Programs

Hazardous Waste Remediation - State Sites

<http://des.nh.gov/organization/divisions/waste/hwrb/index.htm>

Petroleum Remediation

<http://des.nh.gov/organization/divisions/waste/orcb/prs/prp/index.htm>

Asbestos Disposal Sites

<http://des.nh.gov/organization/divisions/waste/orcb/prs/adsp/index.htm>

State Site Remediation and Brownfields Program Rhode Island Department of Environmental Management

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

Contacts:

Kelly J. Owens
kelly.owens@dem.ri.gov
401-222-2797 Ext. 7108

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/wastemanagement/site-remediation/>

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/pubs/regs/regs/waste/bbreg15.pdf>
<http://www.ricwfa.com/wp-content/uploads/2017/03/Policies-and-Procedures-for-the-Brownfields-Revolving-Loan-Fund.pdf>

Incentives

- Commerce RI: Enterprise Zone Business Tax Credit
<http://www.tax.ri.gov/regulations/other/cr03-07.php>
- RI General Law <http://www.rilin.state.ri.us/Statutes/TITLE42/42-64.3/>
- 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 (§ 23-19.14-7 Exemptions to liability), all owners and operators who managed hazardous substances at a site [responsible parties (RP)] can be held to 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. <http://webserver.rilin.state.ri.us/Statutes/title23/23-19.14/23-19.14-7.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.

Contaminants Covered

The Remediation Regulations are intended to regulate the investigation and remediation of contamination resulting from the unpermitted Release of Hazardous Materials. Hazardous Materials are defined as “any material or combination or mixture of materials containing any Hazardous Substance”.

PROGRAM DETAILS

- **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. The fee does not support the program. It goes directly into the States’ General Fund.
- **Sites Enrolled in VCP:** As of January 2017, 998 sites are enrolled in the enrolled VCP. They are currently undergoing active investigation, remediation, or monitoring.
- **Sites Completed under VCP:** As of January 2017, 1383 sites enrolled in the Voluntary Cleanup Program have been completed.

Petroleum and polychlorinated biphenyls (PCBs) are also 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 is under the jurisdiction of the RI Department of Health (RIDOH) if it 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 institutional controls 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/sitelist17c.pdf> and <http://www.dem.ri.gov/brownfields/documents/sitelist17p.pdf>. The following link is a geographic information system (GIS) that maps sites. <http://ridemgis.maps.arcgis.com/apps/webappviewer/index.html?id=87e104c8adb449eb9f905e5f18020de5>

Other Land Programs

Underground Storage Tank Management Program

<http://www.dem.ri.gov/programs/wastemanagement/ust/>

Waste Management Facilities Program

<http://www.dem.ri.gov/programs/wastemanagement/facilities/>

Superfund and Department of Defense Program

<http://www.dem.ri.gov/programs/wastemanagement/superfund-dod.php>

Brownfields Response Program Vermont Department of Environmental Conservation (DEC)

1 National Life Drive – Davis 1
Montpelier, VT 05620-3704
<http://dec.vermont.gov/waste-management/contaminated-sites/brownfields/BRELLA>

Contacts:

Chief

Patricia Coppolino
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802-249-5822

PROGRAM DETAILS

- **Funding Source(s) for the Program:**
100% Federal Funds
- **Cost to enter program or fees for service:** All applicants must pay a non-refundable application fee of \$500.
- **Sites Enrolled in VCP:** As of January 2017, there were 47 active projects enrolled in BRELLA.
- **Sites Completed under VCP:** As of January 2017, 18 projects had received Certificates of Completion (COC) through BRELLA.

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. <http://dec.vermont.gov/waste-management/contaminated-sites/brownfields>

Financial Elements

Assessment and Cleanup Funding

A variety of grants, loans, and technical assistance are available to assist with brownfields reuse projects. <http://dec.vermont.gov/waste-management/contaminated-sites/brownfields/BRELLA/financial-assistance>

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, that may be rescinded only in limited circumstances, such as fraud or hazardous material releases that occur subsequent to the cleanup. <http://dec.vermont.gov/waste-management/contaminated-sites/brownfields/BRELLA/limited-liability>

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/economic-development/funding-incentives/brownfields-initiative>

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://dec.vermont.gov/waste-management/contaminated-sites/brownfields/BRELLA/statutes>

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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://anrmaps.vermont.gov/websites/anra5/>

Other Land Programs

Hazardous Waste Management Program

<http://dec.vermont.gov/waste-management/hazardous>

Storage Tanks Program

<http://dec.vermont.gov/waste-management/storage-tanks>

Solid Waste Management Program

<http://dec.vermont.gov/waste-management/solid>

EPA REGION 2

NEW JERSEY • NEW YORK • PUERTO RICO
THE U.S. VIRGIN ISLANDS

REGION 2 PROGRAM HIGHLIGHTS

EPA Region 2 states and territories have used Section 128(a) Response Program funding to conduct assessments on over 28 properties and leverage over \$575,000.

EPA Region 2 states are working on the nexus of brownfield redevelopment on combined sewer outfalls (CSOs) in urban centers and managing storm water during and after site development.

EPA Region 2 states and communities continue to address the management of fill, including the reuse of historic fill, on its projects sites.

NEW JERSEY

New Jersey Brownfield Program New Jersey Department of Environmental Protection (NJDEP) Office of Brownfield Reuse

601 East State Street, 5th Floor
P.O. Box 420, Mail Code 401-05K
Trenton, NJ 08625-0420
<http://www.nj.gov/dep/srp/brownfields/>

Contacts:

Chief

William Lindner
william.lindner@dep.state.nj.us
609-633-1223

PROGRAM

Office of Brownfield Reuse (OBR) within NJDEP work in implementing NJ's Brownfield program, including: managing Brownfield Development Area (BDA) program, Hazardous Discharge Site Remediation Fund (HDSRF) financial assistance program, Landfill Redevelopment program, and Community Collaborative Initiative and Restoration Initiative to promote brownfield cleanup and reuse. <http://www.nj.gov/dep/srp/brownfields/>.

The Site Remediation Reform Act and the supporting Administrative Requirements addresses the remediation of contaminated sites. These initiatives improve the quality/speed of remedial activities via a Licensed Site Remediation Professional program. <http://www.state.nj.us/dep/srp/>

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. <http://www.nj.gov/dep/srp/finance/hdsrf/>

Incentives

- The Brownfield Reimbursement Program is administered by the NJ Department of Treasury and the NJ Economic Development Authority in coordination with NJDEP/OBR reimburses up to 75% of eligible remediation costs based on specific new taxes that are generated from a redevelopment project. http://www.nj.gov/dep/srp/brownfields/bf_reimbursement.htm
- Economic and Redevelopment Growth Program provides grants to eligible developers/owners of up to 75% of the incremental increase in approved state revenues that are directly realized from the businesses operating in the redevelopment project premises. <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

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. <http://nj.gov/state/planning/brtf.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). <http://www.nj.gov/dep/srp/regs/techrule/>

PROGRAM DETAILS

- **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 Program:**
As of May 2017, there are 28 BDAs with 340 sites.
- **Sites Completed under Program:**
 - Preliminary Assessment/Site Investigation/Remedial Investigation = 10
 - Remedial Action = 9
 - Remedial Action Outcome = 1
 - HDSRF Grant Application Review/ Approve = 70, totaling \$23.1 MM
 - HDSRF Grant Application Review/ Recommended for disbursement = 111, totaling \$16.6 MM
 - Redevelopment Completed/ Under Construction = 10

Contaminants Covered

All hazardous substances on adopted list pursuant to Section 4 of P.L. 1983, c. 315 (N.J.S.A. 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 institutional controls. These permits are monitored to ensure that inspection and reporting obligations are met and the biennial certifications are submitted.

IC Oversight and Monitoring: NJDEP 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 institutional controls. 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>.

Other Land Programs

Underground Storage Tanks (USTs) 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) 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>

<http://www.dec.ny.gov/about/627.html>

Contacts:

Laurie Rizzo

laurie.rizzo@dec.ny.gov

518-402-9764

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>

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

- DEC's main BCP webpage: <http://www.dec.ny.gov/chemical/8450.html>
- New York State Department of Taxation and Finance's publication New York State Tax Credits Available for Remediated Brownfields): <http://www.tax.ny.gov/pdf/publications/multi/pub300.pdf>

Liability Relief Provisions

- BCP COCs: <https://data.ny.gov/Energy-Environment/Brownfield-Cleanup-Program-Certificates-of-Completion/ir93-7qzi>

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). <https://data.ny.gov/Energy-Environment/Brownfield-Cleanup-Program-Certificates-of-Completion/ir93-7qzi>

Contaminants Covered

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

Institutional Controls (IC)

Institutional controls 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.

PROGRAM DETAILS

- Funding Source(s) for the Program:** State funds, as well as federal grants.
- Cost to enter program or fees for service:** There are no fees associated with the BCP application process. However, a responsible party (Participant) is required to reimburse the state for oversight costs which may be negotiated to a flat fee. Oversight costs are waived for an applicant (Volunteer) who is not liable for of hazardous waste disposal or the discharge of petroleum at the site. Responsible parties also pay past state remedial costs.
- Sites Enrolled in BCP:** In 2016, DEC approved 51 applications for participation in the BCP. As of January 2017, DEC has approved 713 BCP applications since the program's inception.
- Sites Completed under BCP:** In 2016, DEC issued 58 Certificates of Completions (COCs) for the BCP. As of January 2017, DEC has issued 301 COCs since the program's inception.

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)

Land Programs Administered by Other State Agencies

Brownfield Opportunity Areas (BOA) Program, administered by New York State Department of State:

<http://www.dos.ny.gov/opd/programs/brownFieldOpp/index.html>

Other Voluntary Response Programs

Environmental Restoration Program

<http://www.dec.ny.gov/chemical/8444.html>

Enforcement Programs

Spill Response Program: <http://www.dec.ny.gov/chemical/8428.html>

Superfund Program: <http://www.dec.ny.gov/chemical/8439.html>

Hazardous Waste Management Program:

<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>

Contacts:

Augusto Márquez Ortiz, Manager
augustomarquez@jca.pr.gov
787-767-8181 ext. 3234

PROGRAM DETAILS

- **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.

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 brownfield sites 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.

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 and methods to be used in the PRVCP. A list of Cleanup Standards has been already developed to serve as the criteria to be achieved when remediating a site.

Contaminants Covered

PREQB developed a list of chemicals of concern to be addressed under the PRVCP.

Institutional Controls (IC)

N/A

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://dpnr.vi.gov/>

Contacts:

Dr. Clanicia Pelle
clanicia.pelle@dpnr.vi.gov
340- 773-1082

PROGRAM DETAILS

- **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.

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 brownfield sites within the Virgin Islands (VI). The VCP will be designed to return brownfield sites 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.

Financial Elements

Assessment and Cleanup Funding

N/A

Incentives

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

Liability Relief Provisions

N/A

Program Elements

Methods/Standards/Controls

Remediation levels shall be based upon a risk assessment of the site and surrounding areas that may be impacted, reflecting the current and future use scenarios.

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 institutional controls, can be used in conjunction with remediation in the VIVRP.

EPA REGION 3

DELAWARE • DISTRICT OF COLUMBIA • MARYLAND
PENNSYLVANIA • VIRGINIA • WEST VIRGINIA

REGION 3 PROGRAM HIGHLIGHTS

EPA Region 3 entities are proactively addressing their brownfield sites and turning them into revitalized properties. The common thread of each EPA Region 3 entity includes; ensuring the maintenance of a brownfield sites inventory, ability to oversee and enforce environmental law, an inclusive process for community involvement and implementing procedures to verify the efficacy of a brownfield cleanup.

EPA Region 3 entities offer liability relief protection when following a strict process for property purchase, assessment and cleanup through an entity Voluntary Cleanup Program. This necessary structure provides the foundation to turn brownfield sites into revitalized properties.

The implementation of Institutional Controls allow for EPA Region 3 entities to conduct targeted cleanups with a strong consideration of cost control facilitating an effective and timely cleanup at brownfield sites.

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.dnrec.delaware.gov/dwhs/Pages/default.aspx>

Contacts:

James Poling
james.poling@state.de.us
302-395-2600

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.dnrec.delaware.gov/dwhs/SIRB/Pages/Voluntary_Cleanup_Program.aspx
<http://www.dnrec.delaware.gov/dwhs/SIRB/Pages/Brownfields.aspx>
http://www.dnrec.delaware.gov/dwhs/SIRB/Pages/SIRB_HSCA_program.aspx

Financial Elements

A variety of grants, loans and technical assistance are available to assist with brownfields reuse projects. <http://www.dnrec.delaware.gov/dwhs/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 brownfield sites. 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.

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). <http://www.dnrec.delaware.gov/dwhs/BAC/Pages/BACPortal.aspx>

PROGRAM DETAILS

- **Funding Source(s) for the Program:** The majority of funding for administrative and staff costs come from the federal grants (10%) and the Hazardous Substances Cleanup Act Fund (HSCAF) (90%).
- **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 January 2017, there are over 200 sites in the VCP and over 175 sites in the BDP.
- **Sites Completed under VCP:** As of January 2017, over 150 sites have been completed under the VCP and the BDP.

Program Elements

Methods/Standards/Controls

Risk-based cleanup standards of 1.0×10^{-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 brownfield sites; asbestos and lead paint contamination are covered if found in the soil and surveys for each are allowable reimbursable costs.

Institutional Controls (IC)

Institutional controls/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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://www.nav.dnrec.delaware.gov/DEN3/>

Other Land Programs

Tanks Management Section

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

DISTRICT OF COLUMBIA

Voluntary Cleanup Program (VCP) Department of Energy and Environment

1200 First St., NE, 5th Floor
Washington, DC 20002
<http://www.ddoe.dc.gov/>

Contacts:

James Sweeney
james.sweeney@dc.gov
202-535-2289

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Appropriated funds and federal 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 January 2017, 27 sites are enrolled in the program.
- **Sites Completed under VCP:** As of January 2017, 14 sites have been completed since the program's inception.

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 June 2014, 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 has hired staff and is in the process of developing work plans with stakeholders for a Remedial Investigation of the sediments in the Anacostia River. They have also begun the drafting of regulations to implement the program. <http://www.doe.dc.gov>.

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

The District is currently analyzing the costs and benefits of implementing the tax incentive portion of its Brownfield Revitalization Act.

Liability Relief Provisions

The District of Columbia's 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 Department of Energy and Environment (DOEE) 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 DOEE uses the District's Leaking Underground Storage Tank (LUST) program standards.

Institutional Controls (IC)

The Brownfield Revitalization Amendment Act of 2000 authorizes DOEE 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 DOEE may include the following.

IC Tracking: The Brownfield Revitalization Amendment Act of 2000 authorizes DOEE to create an IC tracking process.

IC Oversight: The Brownfield Revitalization Amendment Act of 2000 authorizes DOEE to create an IC oversight process.

IC Monitoring: The Brownfield Revitalization Amendment Act of 2000 authorizes DOEE 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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://www.doe.dc.gov>

Other Land Programs

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

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

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.Maryland.gov/Pages/Home.aspx>

Contacts:

James Carroll
James.Carroll@maryland.gov
410-537-3459

PROGRAM DETAILS

- **Funding Source(s) for the Program:** State general fund (10%), the state cleanup fund (10%), and federal grants (80%)
- **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 February 2017, 678 have been accepted into the VCP.
- **Sites Completed under VCP:** As of February 2017, 537 sites have received either a No Further Requirements Determination or a Certificate of Completion (COC).

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. http://mde.maryland.gov/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://mde.maryland.gov/programs/Land/MarylandBrownfieldVCP/MDVCPInformation/Pages/programs/landprograms/errp_brownfields/vcp_info/index.aspx

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.maryland.gov/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 30% 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.

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.maryland.gov/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)

Institutional controls are allowed and are included in the No Further Requirements Determination (NFRD) or COC. The state notes that institutional controls "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 institutional controls. This link also provides additional information regarding contaminated sites in the state. http://www.mde.maryland.gov/programs/Land/MarylandBrownfieldVCP/mapping/Pages/programs/landprograms/errp_brownfields/mapping/index.aspx

Other Land Programs

Oil Control Programs

http://www.mde.state.md.us/programs/Land/OilControl/OilControlProgram/Pages/Programs/LandPrograms/Oil_Control/pollutionmanagement/index.aspx

Hazardous Waste Program

http://www.mde.maryland.gov/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.dep.pa.gov/>

Contacts:

Troy Conrad
tconrad@pa.gov
717-783-1566

PROGRAM

Pennsylvania's Land Recycling Program (Voluntary Cleanup Program), familiarly 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.dep.pa.gov/Business/Land/LandRecycling/Pages/default.aspx>

Financial Elements

Assessment and Cleanup Funding

A variety of grants, loans, and technical assistance are available to assist with brownfields reuse projects. These resources can be accessed on DEP's website: <http://www.ahs.dep.pa.gov/GrantsCenter/>

DEP works in conjunction with the Department of Community and Economic Development (DCED) <http://www.newpa.com/program> offer an array of different funding programs, grants, loans, tax credits, and other incentives to help businesses, communities, and municipalities succeed in Pennsylvania. A few of the key programs applicable to brownfield redevelopment are:

- Industrial Sites Reuse Program <http://www.newpa.com/find-and-apply-for-funding/funding-and-program-finder/industrial-sites-reuse-program-isrp>
- Business in Our Sites <http://www.newpa.com/find-and-apply-for-funding/funding-and-program-finder/business-our-sites-bos-loans>

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 20% within three years from start date (with program). <http://www.newpa.com/find-and-apply-for-funding/funding-and-program-finder/job-creation-tax-credits-jctc>
- Brownfield Tax Incentive 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. <http://www.newpa.com/find-and-apply-for-funding/funding-and-program-finder/keystone-special-development-zone-ksdz>
- PennVEST - a low-interest loan program to help reduce or eliminate water quality threats at industrial and commercial properties. http://www.pennvest.state.pa.us/portal/server.pt/community/funding_programs/9322/non-point_source_projects/541851

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 Recovery Act (RCRA), or Toxic Substances Control Act (TSCA). This was the first One Cleanup Program MOA negotiated with EPA in the nation.

Program Elements

Methods/Standards/Controls

The Cleanup Standards Scientific Advisory Board assists DEP in developing cleanup standards and identifying appropriate statistical and scientific procedures. The Board consists of members with knowledge in the fields of geology, engineering, public

PROGRAM DETAILS

- **Funding Source(s) for the Program:** The Hazardous Site Cleanup Fund and the Industrial Land Recycling Fund provides primary source of administrative costs and it is supplemented through federal grant funding.
- **Cost to enter program or fees for service:** There is no fee to enter the program when a Notice of Intent (NIR) is submitted. A person utilizing the background or State-wide health standards for remediation shall pay a fee of \$250 upon submission of the report certifying compliance with the standards. A person utilizing the site-specific standard shall pay a fee of \$250 each upon the submission of a remedial investigation, risk assessment and cleanup plan and an additional \$500 at the time of the submission of the final report certifying compliance with the standard. The fees are deposited into the Industrial Land Recycling Fund. There is no fee for Special Industrial Areas (SIA) reports and also not required for regulated tank cleanups. A nonrefundable fee of \$500 is submitted with each environmental covenant when activity and use limitations are placed on a property.
- **Sites Enrolled in VCP:** As of January 2017, 1,138 sites are currently enrolled in the program.
- **Sites Completed under VCP:** As of January 2017, 4,956 sites have been completed under the program.

health, toxicology, risk assessment, and environmental law. <http://www.dep.pa.gov/PublicParticipation/AdvisoryCommittees/Cleanup%20and%20Brownfields%20Advisory%20Committees/CSSABoard/Pages/default.aspx>

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.dep.pa.gov/Business/Land/LandRecycling/Standards-Guidance-Procedures/Pages/default.aspx>

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 institutional control is used to demonstrate the attainment of an Act 2 remediation standard for any cleanup conducted under an applicable Pennsylvania environmental law. <http://www.dep.pa.gov/Business/Land/LandRecycling/Pages/Uniform-Environmental-Covenants.aspx>

IC Tracking: Environmental covenants created under the law will be recorded in county land records and in the PA AUL registry.

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 GIS-based website that allows users 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 PA AUL Registry provides direct links to AUL documents associated with a particular property which can be found here: <http://www.depgis.state.pa.us/pa-aul/>.

The following Web address is a direct link to the state's public database that maintains an inventory of brownfield property. This online directory provides important information on the size, location and availability of sites in every corner of the state. <http://www.pasitesearch.com>

Other Remediation Programs

Storage Tank Cleanup Program

<http://www.dep.pa.gov/Business/Land/SiteRemediation/Storage-Tank-Cleanup-Program/Pages/default.aspx>

Hazardous Sites Cleanup Program

<http://www.dep.pa.gov/business/land/siteremediation/hazardous-sites-cleanup-program/pages/default.aspx>

RCRA Corrective Action Program

<https://www.epa.gov/enforcement/rcra-corrective-action-cleanup-enforcement>

Virginia Department of Environmental Quality (DEQ) Division of Land Protection and Revitalization Brownfields and Land Renewal Program Voluntary Remediation Program (VRP)

629 East Main Street,
P.O. Box 1105
Richmond, VA 23218

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

Contacts:

Brownfields and VRP Program Manager

J. Meade R. Anderson
j.meade.anderson@deq.virginia.gov
804-698-4179

Brownfield Coordinator

Vince Maiden, PG
vince.maiden@deq.virginia.gov
804-698-4064

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Federal grants and registration fees.
- **Cost to enter program or fees for service:** RP has a registration application fee of \$2,000 (Phase 1) and an eligibility fee of \$7,500 (Phase 2). There is an annual cost defrayment fee of \$4,500 (Phase 3). Amending a site Certificate may require an additional fee.
- **Sites Enrolled in VCP:** As of January 2017, 475 sites have enrolled in the VRP.
- **Sites Completed under VCP:** As of January 2017, 309 sites have received No Further Action (NFA) Certificates.

PROGRAM

Since 1995, Virginia has operated a program for voluntary cleanups of contaminated sites. Regulations promulgated in 1997 provided 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. Amendment 2 of the Regulations (technical & administrative changes) went into effect on January 29, 2014 and Amendment 3 of the Regulations (registration fee adjustment) became effective on July 1, 2014. <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>

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.virginiareources.org/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 increases. <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 as a statutory responsible person under Virginia's air, water, and waste laws at a brownfield site if they meet the statutory definitions and the additional requirements in the law, though appropriate care is required. There is no fee to obtain a BFPP letter. Virginia also provides comfort letters for contiguous property owners and lender liability situations. 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 institutional controls 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 institutional controls). Tier III may also include a site-specific risk assessment based on methodology derived from the Risk Assessment Guidance for Superfund. In order to improve the efficiency of information maintenance and transfer, DEQ has developed a Microsoft Access based mathematical model for risk assessment called Virginia Unified Risk

Assessment Model (VURAM). This model is developed and maintained by DEQ, and is the recommended tool for conducting a quantitative risk assessment at RCRA CA, RCRA permitting, Solid Waste, VRP/Brownfield facilities. <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)

Institutional controls are allowed; however, Virginia does not have a long-term stewardship program for the VRP. UECA laws went into effect in July 2010; regulations went into effect on November 9, 2011; however, 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 institutional controls. 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>

Virginia Brownfields Assistance Fund

The General Assembly allocated \$2.25 million for Fiscal Year (FY) 17 to be used for the purpose of promoting the restoration and redevelopment of brownfield sites 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 44 grants to local governments from this funding to date.

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>

Contacts:

Erin Brittain
erin.r.brittain@wv.gov
304-368-2000 ext. 3728

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

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 suits 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.
<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/Risk%20Assessment%20Guide.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.

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Federal grants, application fees, and cost recovery for project oversight.
- **Cost to enter program or fees for service:** Application fee is calculated based on the size of property, years of operation, and NAICS code. Applicants pay for WVDEP oversight and costs associated with implementing the voluntary remediation agreements. Cost recovery is 3.5 times the employee's hourly rate, plus any direct costs (laboratory analysis for split samples, etc.).
- **Sites Enrolled in VCP:** As of January 2017, 243 sites have entered the Voluntary Remediation Program (VRP).
- **Sites Completed under VCP:** As of January 2017, 159 Certificates of Completion (COC) have been issued.

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: 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 Google 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.

The following Web page contains the link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks institutional controls (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>

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>

EPA REGION 4

ALABAMA • FLORIDA • GEORGIA • KENTUCKY
MISSISSIPPI • NORTH CAROLINA
SOUTH CAROLINA • TENNESSEE

REGION 4 PROGRAM HIGHLIGHTS

EPA Region 4 states have used Section 128(a) Response Program funding to conduct assessments on over 220 properties, clean up 18 properties, create over 360 jobs, and leverage nearly \$116 million.

As part of the EPA Administrator's priority to cleanup communities, the EPA Region 4 Brownfields Program provides funds and technical assistance to states, communities and other public and nonprofit partners to identify, assess, safely cleanup, and plan for revitalization/reuse of Brownfields properties in the Southeastern US.

*River rapids,
Smoky Mountains,
Tennessee*

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>

Contacts:

Sonja Favors
smb@adem.state.al.us
334-279-3067

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>

Financial Elements

Assessment and Cleanup Funding

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

- Brownfields Revolving Loan Fund (RLF) targeted to counties and municipalities. <http://www.adem.state.al.us/programs/land/brownfields/bfredevelopment.cnt>

Incentives

Tax abatement 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 institutional controls.

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: An MS Excel database is used to track institutional and engineering controls at cleanup sites as part of the VCP and brownfields programs and other programs. Environmental covenants are required by law for sites not returned to an unrestricted use scenario.

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Federal grants (66%) and Alabama Land Recycling and Economic Redevelopment Act (ALRERA) fees (33%).
- **Cost to enter program or fees for service:** All applicants must pay a non-refundable application fee of \$4,215. Various designated programmatic fees cover state oversight costs.
- **Sites Enrolled:** As of January 2017, over 100 sites are actively enrolled in the VCP.
- **Sites Completed:** As of January 2017, over 275 sites have successfully completed requirements of the VCP and received Letters of Concurrence (no further action letters).

IC Oversight and Monitoring: Sites using institutional controls are addressed through a site-specific risk assessment and have a longer term enabling mechanism (covenant) to ensure that institutional controls 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

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

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/>

Contacts:

Brownfields Program Manager
Carrie Kruchell
Carrie.L.Kruchell@dep.state.fl.us
850-245-8765

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>

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

- Site-Specific Activities/Targeted Brownfield Assessment (TBA) <http://www.dep.state.fl.us/waste/categories/brownfields/default.htm>
- Voluntary Cleanup Tax Credit <http://www.dep.state.fl.us/waste/categories/vctc/default.htm>
- Clean Water State Revolving Loan <http://www.dep.state.fl.us/water/wff/index.htm>

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 by an eligible business. The job bonus refund is available to companies that create new jobs on a site with a brownfields agreement or on a property that abuts a site with a brownfields agreement. 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 50% 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.
- 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

Liability Relief Provisions

Under the Brownfields Redevelopment Program (as amended) non-responsible parties and certain responsible parties may receive liability protection from

PROGRAM DETAILS

- **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. The application fee goes into the State General Fund and does not specifically support the Program.
- **Sites Enrolled:** As of April 2017, 295 sites have voluntarily entered into brownfield site rehabilitation agreements with the Department of Environmental Protection (DEP).
- **Sites Completed:** As of April 2017, 94 sites have been issued final Site Rehabilitation Completion Orders ("No Further Action" letters) from DEP since the start of the program.

state and third party claims. Liability protection is provided for lenders serving in a fiduciary capacity on any site in a brownfields area. http://www.dep.state.fl.us/waste/categories/brownfields/pages/economic_incentives.htm

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. Brownfields sites pursuing cleanup must adhere to the following Florida Rules:

- [Contaminated Site Cleanup Criteria, Chapter 62-780, Florida Administrative Code \(F.A.C.\)](#)
- [Contaminant Cleanup Target Levels, Chapter 62-777, F.A.C.](#)

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 IC, 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: DEP audits ICs 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>

Other Land Programs

Petroleum Cleanup Program

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

Dry cleaning 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>

Brownfields Program

Georgia Department of Natural Resources (DNR)

Environmental Protection Division - Land Protection Branch

2 Martin Luther King Jr. Drive SE – Suite 1054 East Tower
Atlanta, GA 30334

<http://epd.georgia.gov/land-protection-branch>

Contacts:

Shannon Ridley
shannon.ridley@dnr.ga.gov
404-657-8616

PROGRAM

Georgia's Brownfields 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 brownfield investigation and cleanup.

<http://epd.georgia.gov/brownfield>

Financial Elements

Assessment and Cleanup Funding

No monetary grants or loans are provided for under the program.

Incentives

Tax abatement provisions are available for recovery of certified investigation and cleanup costs at qualifying properties. http://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/BFTax.pdf

Liability Relief Provisions

The Georgia Brownfield Act (formerly the Hazardous Site Reuse and Redevelopment 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://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/BFTax.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 institutional controls provisions for brownfield sites that are on the state Superfund list and that have not certified compliance with a residential risk reduction standard for soil and ground

water. Georgia has enacted a Uniform Environmental Covenants Act to establish an additional mechanism for creating and maintaining engineering and institutional controls. http://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/BFInstCnt_0.pdf and http://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/UECA.pdf

IC Tracking: A database to capture all institutional controls has been developed under the State Superfund and Brownfield Programs. Georgia's Brownfield 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 State Superfund and Brownfield 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/institutional controls).

The following Web address is a direct link to the state's public Brownfields database that maintains an inventory of Brownfields and/or tracks institutional controls: http://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/Summary%20Table.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 institutional controls: <http://epd.georgia.gov/hazardous-site-inventory>

Other Land Programs

Hazardous Site Cleanup

<http://epd.georgia.gov/hazardous-site-response-act-guidance>
<http://epd.georgia.gov/voluntary-remediation>

Underground Storage Tanks Program

<http://epd.georgia.gov/underground-storage-tank-technical-guidance>

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Federal Brownfield Grant and Application Review Fees
- **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 January 2017, 782 properties had been enrolled in the program; 42 of these properties were subsequently withdrawn.
- **Sites Completed:** As of January 2017, 430 properties completed cleanup under the program or certified compliance following site investigation under program oversight.

Kentucky Brownfield Redevelopment Program Kentucky Division of Compliance Assistance

300 Sower Blvd.
Frankfort, KY 40601
<http://dep.ky.gov/Pages/brownfields.aspx>

Contacts:

Herb Petitjean
Herb.Petitjean@ky.gov
502-782-6432

PROGRAM

The Kentucky Brownfield Redevelopment 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://dep.ky.gov/Pages/brownfields.aspx>

Financial Elements

Assessment and Cleanup Funding

The Cleaner Commonwealth Fund provides cleanup grants and loans to local governments, quasi-governmental entities, and non-profits. Kentucky does not currently offer funding to private entities through this program, but may in the future. Meanwhile, private entities may consider partnering with an eligible entity. <http://dca.ky.gov/brownfields/Pages/Cleanercommonwealthfund.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 Covenant Not to Sue (CNTS) under VERP.

KRS 224.1-415 provides property owners and prospective property owners (who can certify that they did not cause a release or have relationships with those who did, and who develop a plan to reuse the property safely) documentation that they will not be held responsible for conducting site investigation and remediation under Kentucky Superfund laws, specifically KRS 224.1-400 and KRS 224.1-405. <http://waste.ky.gov/SFB/Pages/Brownfields.aspx>
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 certain portions of state cleanup program.

Brownfields Redevelopment Authorities (or similar)

- The Kentucky Housing Corporation has established 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.
- Duke Energy, Louisville Gas and Electric and Kentucky Utilities have programs that offer reduced electrical rates for companies that redevelop on qualified brownfields.

PROGRAM DETAILS

Funding Source(s) for the Program: State Hazardous Waste Management fund, fees, and federal grants

Cost to enter program or fees for service:

- Informal program leading to Notice of Completion letter – no cost at the present
- Voluntary Environmental Remediation Program (VERP), which leads to Covenant Not to Sue - \$1,000 to \$2,500 based on acreage plus any oversight costs beyond that. Fees may be waived in certain circumstances.
- Kentucky Brownfield Redevelopment and Reuse Program (KRS 224.1-415) provides a Notice of Eligibility/Notice of Concurrence - \$2,500

Sites Enrolled in VCP:

- Informal Program – 5,470 sites
- VERP – 3 sites
- Kentucky Brownfield Redevelopment and Reuse Program (KRS 224.1-415) - 152 sites

Sites Completed under VCP:

- Informal program – 4,804 sites
- VERP – 0 sites
- Kentucky Brownfield Redevelopment and Reuse Program (KRS 224.1-415) - 138 sites

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 “Regional Screening Levels (RSL).”

Contaminants Covered

Petroleum and polychlorinated biphenyls (PCBs) are covered, but petroleum releases are not eligible for a Covenant Not to Sue 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 institutional controls 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.

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>

Mississippi Brownfield Program Mississippi Department of Environmental Quality (MDEQ) Groundwater Assessment and Remediation Division

P.O. Box 2261
Jackson, MS 39225-2261
<http://www.brownfields.ms>

Contacts:

Brownfield Coordinator

Willie McKercher
wmckercher@mdeq.ms.gov
601-961-5731

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>

Financial Elements

Assessment and Cleanup Funding

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 brownfield sites; 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 Mississippi Economic Redevelopment Act (§ 57-91-1) promotes redevelopment by providing a tax rebate to defray the remediation costs associated with cleaning up contaminated property. Counties and/or municipalities that contain properties with environmental contamination must first approve a remediation project area within its jurisdiction. After approval of the remediation plan by MDEQ through a Brownfield Agreement (§ 49-35-15) and the project by MDA, all sales, income, and franchise taxes collected from businesses located in the redevelopment project area would be deposited into a special fund that would be used to reimburse the developer for approved cleanup costs. <http://bit.ly/MS-MERA>
- The Brownfield Voluntary Cleanup and Redevelopment Incentives Act provides a state income tax credit for a property owner equal to 25% 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. <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 DETAILS

- **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 MDEQ all reasonable and direct costs associated with the administration of the application at the rate of \$100/hour, including document reviews and field time, if necessary. These fees support the cost of the program for the State of Mississippi. Cost typically does not exceed 5% 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:** As of March 2017, 122 sites are enrolled in the Mississippi Voluntary Evaluation program and 30 sites are enrolled in the Mississippi Brownfields Program.
- **Sites Completed:** As of January 2017, 63 sites have been completed under MS Response Programs.

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. Institutional controls play a major role in Tier 2 and Tier 3 assessments. <http://bit.ly/MDEQ-Risk-Evaluation-Procedures>

Contaminants Covered

Hazardous Substances, asbestos, 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: The state tracks and monitors institutional controls 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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://list.brownfields.ms>

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 Program

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

Brownfields Program and Inactive Hazardous Sites Voluntary Cleanup Program

North Carolina Department of Environmental Quality (DEQ)

Division of Waste Management (DWM)

217 W. Jones Street
Raleigh, NC 27603

<https://deq.nc.gov/about/divisions/waste-management>

Contacts:

Brownfields

Bruce Nicholson
bruce.nicholson@ncdenr.gov
919-707-8330

Voluntary Cleanup

Charlotte Jesneck
charlotte.jesneck@ncdenr.gov
919-707-8327

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. Causative parties are responsible for off-property remediation at Brownfields Sites.

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 (90% for year one, down to 10% 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, DEQ recently initiated a program ("Ready for Reuse Program") which DEQ 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.

PROGRAM DETAILS

Funding Source(s) for the Program(s): 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 DEQ and the Department of Justice. 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. The Inactive Hazardous Sites Program now has risk-based remediation options for eligible sites. There are additional fees for this process that depend on the size of the area of contamination. Both the privatized oversight and risk-based remediation fees are used only to support administration of the programs.

Sites Enrolled in VCP: Brownfields Program – As of January 2017, 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 January 2017, 189 sites have approved ongoing voluntary assessments and/or cleanups underway.

Sites Completed under VCP: Brownfields Program – As of January 2017, there are 225 completed brownfields agreements.

IHSB's VCP: As of January 2017, 562 sites have completed all work and been assigned No Further Action status under the Inactive Hazardous Sites Program.

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.

ICIC 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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://portal.ncdenr.org/web/wm/bf/projectinventory>

The Inactive Hazardous Sites Program also allows land use restrictions as part of remedies. These are tracked and annual certification of compliance runs with the land.

Other Land Programs

Underground Storage Tanks (UST) Program

<https://deq.nc.gov/about/divisions/waste-management/ust>

Dry-cleaning Solvent Cleanup Act (DSCA) Program

<https://deq.nc.gov/about/divisions/waste-management/dry-cleaning-solvent-cleanup-act-program>

Superfund Program- DEQ Support Agency

<https://deq.nc.gov/about/divisions/waste-management/superfund-section>

Pre-Regulatory Landfill Program

<https://deq.nc.gov/about/divisions/waste-management/superfund-section/pre-regulatory-landfill-program>

SOUTH CAROLINA

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/>

Contacts:

Robert Hodges
hodgesrf@dhec.sc.gov
803-898-0919

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/HomeAndEnvironment/Pollution/CleanUpPrograms/BrownfieldsCleanupLoanFund/>

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 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.

PROGRAM DETAILS

- **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. All money collected through reimbursement of oversight costs are held in an account for the exclusive use of VCP support. A Phase I Environmental Assessment is required along with an application for NRPs.
- **Sites Enrolled in VCP:** As of January 2017, 383 sites are currently enrolled in the program.
- **Sites Completed under VCP:** As of January 2017, 137 sites completed cleanups under the program.

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. For sites where the Brownfields Program has implemented ICs, the sites 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 institutional controls 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 institutional controls. This link also provides additional information regarding contaminated sites in the state.

<http://www.scdhec.gov/apps/environment/PublicRecord/>

Other Land Programs

Underground Storage Tanks (UST) Program

<http://www.scdhec.gov/HomeAndEnvironment/Land/UndergroundStorageTanks/>

Dry Cleaning Program

<http://www.scdhec.gov/HomeAndEnvironment/Land/DryCleaningSites/>

Superfund Program

<http://www.scdhec.gov/HomeAndEnvironment/Pollution/CleanUpPrograms/Superfund/>

Voluntary Cleanup, Oversight, and Assistance Program (VOAP) Tennessee Department of Environment and Conservation (TDEC) Division of Remediation, Brownfields Redevelopment Program

4312 Rosa L. Parks Boulevard, 14th Floor

Nashville, TN 37243

<https://www.tn.gov/environment/program-areas/rem-remediation/rem-brownfields-redevelopment-overview.html>

Contacts:

Evan Spann

Evan.W.Spann@tn.gov

615-532-0919

PROGRAM

The Tennessee Brownfields Redevelopment Program works with the public to assist in the re-use and revitalization of brownfields in Tennessee. The Voluntary Cleanup, Oversight and Assistance Program (VOAP) was created under Tennessee statute in 2001 and supports the redevelopment and revitalization of brownfields to protect the environment, reuse existing infrastructure, minimize urban sprawl and create economic opportunities. There are several ways the Division of Remediation works with the public to address brownfields including Voluntary Cleanup and federal Brownfields Grant Assistance. <http://www.tn.gov/environment/topic/rem-brownfields-redevelopment-overview>

Financial Elements

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. <https://advance.lexis.com/container?config=014CJAA5ZGVhZjA3NS02MmMzLTRlZWQ+OGJjNC00YzQ1MmZlZnc2YWYKAFBvZENhdGFsb2e9zYpNUjTRalWVfyrur9ud&crd=ffc3e4bd-5fcc-4221-a6ee-eeea189ccb16&prid=7ed549af-7fed-4ef0-b397-55a7ae51d402> (see Title 67, Chapter 4, Part 20, Credit section 67-4-2009)

Liability Relief Provisions

Participants can receive a No Further Action letter and release of liability under any statute administered by the 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 the 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. https://www.tn.gov/content/dam/tn/environment/remediation/documents/brownfieldsvoap/rem_Tennessee-Brownfields-Redevelopment-Toolbox.pdf

PROGRAM DETAILS

- **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; Vapor Intrusion Evaluation—\$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 January 2018, 1889 sites are enrolled in the VOAP.
- **Sites Completed under VOAP:** As of January 2018, 156 sites have received NFA letters.

Program Elements

Methods/Standards/Controls

EPA Regional Screening Levels (RSLs) 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.

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 institutional controls. This link also provides additional information regarding contaminated sites in the state: https://www.tn.gov/content/dam/tn/environment/remediation/documents/rem_promulgated-site-list.pdf.

Tennessee also maintains a series of brownfields success stories across the state. <https://www.tn.gov/environment/program-areas/rem-remediation/rem-success-stories.html>

Other Land Programs

Underground Storage Tanks (UST) Program

<https://www.tn.gov/environment/program-areas/ust-underground-storage-tanks.html>

EPA REGION 5

ILLINOIS • INDIANA • MICHIGAN
MINNESOTA • OHIO • WISCONSIN

REGION 5 PROGRAM HIGHLIGHTS

EPA Region 5 states have used Section 128(a) Response Program funding to conduct assessments on over 313 properties, clean up 7 properties, create over 33 jobs, and leverage nearly \$14 million.

The Land Revitalization Program in Region 5 is focused on restoring land and other natural resources into sustainable community assets that maximize beneficial economic, ecological and social uses to ensure protection of human health and the environment.

*Grand Portage
National Monument,
Minnesota*

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.illinois.gov/business/cleanup-programs/index>

Contacts:

Mike Charles

Mike.Charles@illinois.gov

217- 785-3846

PROGRAM

Brownfields Assistance Program – The Office of Brownfields Assistance manages the Brownfields loan program and offers technical support to communities through the services of its Brownfields representatives.

<http://www.epa.illinois.gov/topics/cleanup-programs/brownfields/index>

Site Remediation Program (SRP) – The SRP cleanup program 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 IEPA.

<http://www.epa.illinois.gov/topics/cleanup-programs/srp/overview/index>

Financial Elements

Assessment and Cleanup Funding

- Brownfields Cleanup Revolving Loan Fund offers interest free loans up to \$400,000 per site to municipalities for brownfields cleanups. Sites must be enrolled in the Site Remediation Program 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 US 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, soil gas 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 and site-specific soil and ground water parameters, to develop site specific remediation objectives. Tier 3 is used to address situations where the 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 No Further Remediation 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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://epadata.epa.state.il.us/land/srp/>

Other Land Programs

Leaking Underground Storage Tank (LUST) Program

<http://www.epa.illinois.gov/topics/cleanup-programs/lust/index>

Superfund Program

<http://www.epa.illinois.gov/topics/cleanup-programs/federal-sites/index>

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Remediation Applicants pay for IEPA oversight costs (SRP) and federal grants/revolving loan repayments fund Brownfield activities.
- **Cost to enter program or fees for service:** \$500 fee to enter the Site Remediation Program which is applied to the first bill sent to the Remediation Applicant.
- **Sites Enrolled in VCP:** As of January 2017, 799 sites are currently in the program.
- **Sites Completed under VCP:** As of January 2017, 3,544 sites have completed cleanups under the program.

Brownfields Program at Indiana Finance Authority (IFA) and Voluntary Remediation Program (VRP) Indiana Department of Environmental Management (IDEM) Office of Land Quality

Indiana Brownfields Program
100 North Senate Avenue
IGCN 1275
Indianapolis, IN 46204

Contacts:

Michele Oertel
moertel@ifa.in.gov
317-234-0235

Voluntary Remediation Program
100 North Senate Avenue
IGCN 1101
Indianapolis, IN 46204

Contacts:

Corey Webb
CWEBB@idem.IN.gov
317-234-0966

PROGRAM

Indiana Brownfields Program – This is a resource for public and private brownfield stakeholders and a mechanism for the state to partner with communities and eligible private entities to address environmental concerns to facilitate brownfield 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. <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>

Financial Elements

Assessment and Cleanup Funding

A variety of financial assistance is available for brownfield reuse projects. Funding is not retroactive. <http://www.in.gov/ifa/brownfields/2366.htm>

Incentives

A variety of tax incentives are available to assist with brownfield 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. Requests for Comfort and/or Site Status Letters can be submitted outside of any financial assistance provided through the Indiana Brownfields Program. Sites assessed/remediated with federal and/or state brownfield funds may enter the IDEM VRP for a Certificate of Completion (COC) or Covenant Not to Sue (CNTS). The two state programs work cooperatively together to meet stakeholder needs.
- 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). The RCG that is being utilized replaces the former Risk Integrated System of Closure (RISC) that had been utilized since 2002.
- Indiana developed risk-based residential and commercial/industrial screening level criteria for soil and ground water contaminants and allows for site-specific risk assessments to determine alternative site closure levels.
- In addition to risk-based numeric standards, both the Indiana Brownfields Program and VRP consider risk management practices in evaluating sites.

PROGRAM DETAILS

- Funding Source(s) for the Program(s):** State General Fund, State Cleanup Fund, and federal grants/cooperative agreements (competitive and non-competitive).
- Cost to enter Program(s) or fees for service(s):** The Indiana Brownfields Program is free (though 2007 state legislation allows for fees), 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 January 2017, there are 1,735 Indiana Brownfields Program sites and more than 345 active VRP projects.
- Sites Completed under VCP:** As of January 2017, for the Indiana Brownfields Program, an approximate total of 802 liability interpretation/closure letters (Comfort Letters, Site Status Letters, NFA Letters) and comment letters were issued; 92 Brownfield Determination Letters (usually for tax incentives) were issued; and 190 Petroleum Eligibility Determination Letters were issued. As of January 2017, 354 sites have successfully completed the VRP, and 345 sites remain active.

Contaminants Covered

- Both programs cover hazardous substances and petroleum. Risk-based screening levels have been developed for approximately 150 common constituents, excluding asbestos.
- In the Indiana Brownfields Program, asbestos, lead paint, and PCBs are eligible contaminants for program assistance under certain circumstances, as well as other Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 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 (ERCs). 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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://www.in.gov/idem/6551.htm>

Other Land Programs

IDEM Excess Liability Trust Fund (ELTF) Program
<https://secure.in.gov/idem/5063.htm>

IDEM State Cleanup Program
<http://www.in.gov/idem/4179.htm>

IDEM Leaking Underground Storage Tanks (LUST) Program
<http://www.in.gov/idem/4997.htm>

Brownfield Redevelopment Assessment Program and Cleanup and Redevelopment Program Michigan Department of Environmental Quality (DEQ)

P.O. Box 30426
Lansing, MI 48909
www.michigan.gov/deqrrd

Contacts:

Brownfield Redevelopment Program
Carrie Geyer
geycr1@michigan.gov
517-284-5182

Brownfield Redevelopment Assessments
Joseph Walczak
walczakj@michigan.gov
517-284-5167

PROGRAM

Michigan created options to overcome the obstacles of brownfield redevelopment, including cost-effective cleanup options, causation-based liability, liability protection for new owners, state funding for cleanups, and grant and loan programs.

Financial Elements

Assessment and Cleanup Funding

- State clean up funding is available for petroleum related sites and on a limited basis for non-petroleum related sites.
- Michigan's EPA Section 128(a) Brownfield Grant is utilized to provide Targeted Brownfield Site Assessments for municipalities with qualifying properties.

Incentives

- Brownfield Redevelopment Program offers grants and loans of up to \$1,000,000 to municipalities for investigation and cleanup activities on brownfield properties with a proposed redevelopment. The municipality does not need to own the property. www.michigan.gov/deqbrownfields
- Tax increment financing for environmental activities is available to municipalities to promote redevelopment of contaminated properties.
- A variety of additional financial incentives from the Michigan Economic Development Corporation are available to provide assistance to brownfield projects, including tax increment financing for non-environmental activities and community redevelopment grants. www.michiganadvantage.org/Grow-Your-Business/

Liability Relief Provisions

A Baseline Environmental Assessment (BEA) establishes the means to distinguish a new release from pre-existing contamination. Completing a BEA and submitting it to the DEQ prior to or within 45 days of purchase provides an exemption from liability for 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). www.michigan.gov/bea

PROGRAM DETAILS

- **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 (Part 201), or Part 213, Leaking Underground Storage Tanks (Part 213), of the Natural Resources and Environmental Protection Act (NREPA), 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 January 2017, DEQ had provided oversight or assistance on more than 10,000 cleanup projects.

Program Elements

Methods/Standards/Controls

- A property is considered a "facility" if the contaminant concentration exceeds one or more residential criteria, as defined in Part 201 of NREPA.
- Risk-based criteria are in place for soil and ground water based on residential and non-residential land-use categories. Risk-based criteria are currently being developed to address the vapor intrusion pathway and screening levels are being utilized in the interim.
- Michigan DEQ also allows for the development of alternate criteria levels with the performance of site-specific risk assessments.

Contaminants Covered

Program covers petroleum and hazardous substances.

Institutional Controls (IC)

Land and resource-use restrictions are an integral part of Michigan's cleanup and redevelopment program. Michigan DEQ has established a tracking system for land and resource-use restrictions that are submitted to the state. This system includes a web-based mapping application that identifies properties with ICs.

Other Land Programs

Leaking Underground Storage Tank (LUST) Program

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

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>

Contacts:

Petroleum Brownfields Program
Jessica Ebertz
jessica.ebertz@state.mn.us
651-757-2328

Voluntary Investigation and Cleanup Program
Gary Krueger
gary.krueger@state.mn.us
651-757-2509

PROGRAM

The Minnesota Pollution Control Agency (MPCA) offers technical and financial assistance to parties involved with brownfield sites. 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/index.php/waste/waste-and-cleanup/cleanup/brownfields/index.html>

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>

Liability Relief Provisions

A Baseline Environmental Assessment (BEA) establishes the means to distinguish a new release from pre-existing contamination. Completing a BEA and submitting it to the DEQ prior to or within 45 days of purchase provides an exemption from liability for 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).

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>

PROGRAM DETAILS

- **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 VCP:** As of January 2017, approximately 400 sites are active in each of the VIC and PBP programs.
- **Sites Where Cleanup Activities Have Occurred:** As of January 2017, over 5,600 sites are completed (received assurance letters) in the MPCA VIC program and over 4,100 sites in the PBP program.

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/contaminated-sites.html>

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

Contacts:

Martin Smith
martin.smith@epa.ohio.gov
614-644-4829

Dan Tjoelker
daniel.tjoelker@epa.ohio.gov
614-644-3750

PROGRAM DETAILS

- **Funding Source(s) for the VCP Program:**
Program fees and federal grants
- **Cost to enter VCP program or fees for service:**
Fee structure to support program costs:
<http://epa.ohio.gov/portals/30/vap/docs/2014VAPFeeScheduleAugustrounded.pdf>
- **Sites Enrolled in VCP:** As of January 2017, 655 No Further Action (NFA) letters have been issued since the inception of the program in 1994.
- **Sites Completed under VCP:** As of January 2017, 565 properties have received a Covenant Not to Sue (CNS) from Ohio EPA.

PROGRAM

Voluntary Action Program (VAP)—created to give volunteers 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)— provides outreach, training, and assistance to individuals, communities, and environmental professionals involved in brownfield revitalization. The program helps communities explore funding options for assessment and cleanup of brownfields and can provide direct assistance to communities through Targeted Brownfield Assessments. <http://www.epa.state.oh.us/derr/SABR/sabr.aspx>

Financial Elements

Assessment and Cleanup Funding

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

- Ohio EPA:
http://www.epa.ohio.gov/derr/SABR/Grant_Assistance.aspx%20
- ODSA Office of Redevelopment:
http://development.ohio.gov/cs/cs_brownfield.htm
- JobsOhio:
http://jobs-ohio.com/images/Revite_Loan_Assessment_Grant_APR2014.pdf

Incentives

Tax Abatement—upon issuance of a CNS 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/tax%20Incentives.pdf>

Liability Relief Provisions

A person undertaking a voluntary action utilizes consultants certified by Ohio EPA (certified professional or CP) and certified labs to perform investigation and cleanup activities. Once the cleanup is done, the CP prepares an NFA letter to demonstrate that proper investigation and cleanup activities were performed and that no further action is needed. If the site meets applicable standards, the Ohio EPA can issue a CNS, which promises the volunteer that the State of Ohio will not require further investigation or cleanup of the property.

<http://epa.ohio.gov/Portals/30/vap/docs/Fact%20Sheet.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 Ohio. http://www.epa.ohio.gov/derr/sabr/Small_Rural_Community_Brownfield_Assistance.aspx

Program Elements

Methods/Standards/Controls

Ohio EPA developed the original rules governing the VAP with considerable input from a steering committee and technical subcommittees representing diverse interests. The VAP reviews and revises rules every five years with input from external stakeholders. For more information on the latest review and revision of the VAP rules: <http://epa.ohio.gov/derr/derrrules.aspx>

Contaminants Covered

Hazardous substances and/or petroleum. Sites that are subject state or federal enforcement, hazardous or solid waste closure, and petroleum underground storage tanks (except limited instances) are not eligible for the VAP. Cleanup standards are based on natural background, generic risk-based cleanup standards, or site-specific cleanup standards.

Institutional Controls (IC)

Ohio EPA audits at least 25% 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", an environmental covenant (ORC §5301.82) 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: Ohio EPA inspects institutional controls (activity and use) every five years.

Ohio Brownfields Inventory Database

A limited inventory of brownfield properties in Ohio:
http://epa.ohio.gov/derr/SABR/brown_dtb/browndtb.aspx

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://epa.ohio.gov/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/>

Contacts:

Land Recycling Team Leader

Michael Prager
michael.prager@wisconsin.gov
608-261-4927

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 sites. 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. <http://dnr.wi.gov/org/aw/tr/cleanup/ocp.htm>

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) with options for addressing soil contamination. The RP and their consultant can either demonstrate that the site has met site-specific soil cleanup standards developed using the methodology set out in the rule; or utilize performance standards (such as caps or covers) to ensure that soil contaminants do not pose a threat to human health or the environment.

Groundwater must meet state enforcement standards or the RP must demonstrate that adequate source control measures have been taken,

PROGRAM DETAILS

- **Funding Source(s) for the Program:** State fund, program fees, and federal grants. Generally, program fees pay for the cost of technical oversight and state funds and federal grants pay for the cost of redevelopment assistance, outreach, training, and program and policy development.
- **Cost to enter program or fees for service:** WDNR employs two fee structures for parties' assistance in the cleanup and redevelopment of contaminated properties, flat fees per service or an hourly oversight fee, 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 January 2017, more than 3,055 sites are being cleaned up in the traditional cleanup program, seeking closure letters. Approximately 102 active sites are in the Voluntary Party Liability Exemption (VPLE) process, seeking Certificates of Completion (COC).
- **Sites Completed:** As of January 2017, more than 26,398 sites have received close-out letters and 167 sites have received COCs.

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>

Contaminants Covered

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

Institutional Controls (IC)

Closures with residual contamination and certain remedial action approvals include institutional controls or "continuing obligations," legal and engineering requirements needed by current/new property owner(s) to maintain certain safeguards. <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 other necessary continuing obligations, such as industrial soil standards that are appropriate until the land use changes, operations of vapor mitigation systems, and others.

IC Tracking: Sites with ICs/continuing obligations are tracked using the following link: <http://dnr.wi.gov/topic/Brownfields/clean.html>

IC Oversight: The DNR has the ability to enforce continuing obligations that are legally binding per state statute (s. 292.12, Wis. Stats.).

IC Monitoring: As of January 2017, DNR has audited more than 660 properties with continuing obligations per year using its EPA Section 128(a) Brownfields Grant 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.

EPA REGION 6

ARKANSAS • LOUISIANA • NEW MEXICO
OKLAHOMA • TEXAS

REGION 6 PROGRAM HIGHLIGHTS

EPA Region 6 states have used Section 128(a) Response Program funding to conduct assessments on over 294 properties, clean up 17 properties, create over 3,300 jobs, and leverage nearly \$137 million.

Several Region 6 states—Oklahoma, Texas, and New Mexico—are assessing and cleaning up contaminated service stations, motels, and businesses along historic Route 66, boosting economic development along the historic corridor.

*Jemez Mountains,
Los Alamos,
New Mexico*

Brownfield Program Arkansas Department of Environmental Quality (ADEQ) Office of Land Resources

5301 Northshore Drive
North Little Rock, AR 72118-5317
<http://www.adeq.state.ar.us/hazwaste/>

Contacts:

CERCLA Brownfields Inspector Supervisor

Terry Sligh
<mailto:terry@adeq.state.ar.us>
501-682-0867

PROGRAM DETAILS

- **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 January 2017, 115 sites were enrolled in the Brownfields Program.
- **Sites Completed under VCP:** As of January 2017, 44 brownfield sites were completed.

PROGRAM

The Arkansas Department of Environmental Quality (ADEQ) is administering its Brownfield 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.adeq.state.ar.us/hazwaste/bf/default.htm>

Financial Elements

Assessment and Cleanup Funding

Arkansas uses its U.S. EPA Section 128(a) Response Program funding to conduct Phase I and Phase II Environmental Site Assessments (ESA) and minor site cleanup for municipalities, quasi-governmental organizations and nonprofits. 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.adeq.state.ar.us/hazwaste/bf/default.htm#FinancialAssist>

Liability Relief Provisions

Under the state's VCP program, ADEQ issues Implementing Agreements (IA) establishing 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 are 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.

Institutional Controls (IC)

Arkansas does not have a system to monitor or enforce long-term stewardship and institutional controls. Institutional controls 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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://www.adeq.state.ar.us/hazwaste/bf/brownfield.asp>

Other Land Programs

Regulated Storage Tanks (RST) Program

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

Voluntary Remediation Program (VRP) / Brownfields Initiative Louisiana Department of Environmental Quality (DEQ)

P.O. Box 4312
Baton Rouge, LA 70821-4312
<http://www.deq.la.gov/brownfields>

Contacts:

Duane Wilson
duane.wilson@la.gov
225-219-3719

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. <http://www.deq.la.gov/brownfields>

Financial Elements

Assessment and Cleanup Funding

Louisiana Brownfields Cleanup Revolving Loan Fund – The Department’s Revolving Loan Fund Program expired as there are no funds available.

Liability Relief Provisions

Perspective purchases who enter the state VCP are eligible for a release from liability for previous contamination at a property. 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 Department of Environmental Quality (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 Risk Evaluation/Corrective Action Program (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 sites are ineligible).

Institutional Controls (IC)

Use restrictions for partial voluntary remedial actions.

IC Tracking: Institutional controls 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 institutional controls. This link also provides additional information regarding contaminated sites in the state.

<http://www.deq.louisiana.gov/portal/LinkClick.aspx?fileticket=Y2QYdiziWh0%3d&tabid=269>

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Federal grants (90%) and state cleanup fund (10%)
- **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. The \$500 Application fee is applied to the Department’s oversight costs. Waivers for oversight costs are available to government and nonprofit VRP applicants as funding permits.
- **Sites Enrolled in VCP:** As of January 2017, 147 sites were enrolled in the program.
- **Sites Completed under VCP:** As of January 2017, 67 Certifications of Cleanup (COC) were issued, and 18 No Further Action (NFA) letters were issued.

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
<https://www.env.nm.gov/>

Contacts:

Program Manager

Ali Fumall
ali.fumall@state.nm.us
505-827-0078

VRP Project Manager

Rebecca Cook
rebecca.cook@state.nm.us
505-827-0171

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. <https://www.env.nm.gov/gwb/RemediationOversight/VRP.html>

Financial Elements

Assessment and Cleanup Funding

NMED offers 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. <https://www.env.nm.gov/gwb/RemediationOversight/Brownfields.html>

Liability Relief Provisions

Upon successful completion of a voluntary remediation project, NMED provides a Covenant Not to Sue (CNS) to a new purchaser of a contaminated property, provided the purchaser did not contribute to the site contamination. The CNS addresses 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 or indoor air.

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Federal grants, Revolving Loan Fund (RLF) repayments and oversight fees
- **Cost to enter the VRP:** There is a \$1,000 application fee, and payment to NMED for oversight charges is required. Oversight is billed as actual staff hours worked, as well as any required travel and supplies. The current staff oversight fee is \$90/hour.
- **Sites Enrolled in VRP:** As of January 2017, there were 30 active sites in the program.
- **Sites Completed under VRP:** As of January 2017, 95 sites had completed cleanups through the program.

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 includes a direct link to the state's public inventory of VRP sites including those with ICs. This link also provides additional information regarding contaminated sites in the state. <https://www.env.nm.gov/gwb/RemediationOversight/VRP.html>

Other Land Programs

Petroleum Storage Tank Bureau

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

Superfund Program

<https://www.env.nm.gov/ust/ustbtop.html>

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/brownfindex.html>

Contacts:

Brownfield Manager

Aron Samwel
aron.samwel@deq.ok.gov
405-702-5123

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>

Contacts:

Brownfields Manager

Jeff Myers
j.myers@occemail.com
405-522-2764

PROGRAM DETAILS

- **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 for private parties (DEQ); None (OCC)
- **Sites Enrolled in VCP:**
 - DEQ** – As of January 2017, 13 sites were currently enrolled in the program.
 - OCC** – As of January 2017, 5 sites were currently enrolled in the program.
- **Sites Completed under VCP:**
 - DEQ** – As of January 2017, 21 Brownfields Certificates of No Action Necessary have been issued. 16 Brownfields Certificates of Completion (COC) have been issued.
 - OCC** – As of January 2017, 15 Brownfields Certificates of No Action Necessary have been issued. Six Brownfields Certificates of Completion (COC) have been issued.

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) 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 related sites, or from leaking underground petroleum storage tank (PST) sites. The brownfields process includes working with staff to address the site through assessment and remediation. <http://www.occeweb.com/og/brownfields.htm>

Financial Elements

Assessment and Cleanup Funding

- DEQ provides free Targeted Brownfields Assessments (TBA) to public entities and nonprofit groups. On occasion, DEQ offers competitive cleanup grants to government entities and nonprofit groups. Public, nonprofit and private entities may obtain low interest loans for cleanup from DEQ's Brownfields Revolving Loan Fund (RLF).
- The State Clean Water Revolving fund may be accessed for the cleanup of brownfield sites in metropolitan areas that have the potential to impact waters of the state.
- OCC can provide Targeted Brownfields Assessments to public entities and nonprofit groups. It also inspects and refers sites to the Oklahoma Energy Resources Board for a funded oil and gas site assessment and cleanup, and can refer 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 10 acre or larger DEQ brownfield site may qualify for incentive payments under the Oklahoma Quality Jobs Act. <http://www.deq.state.ok.us/lpdnew/Brownfields/FactSheets/Brownfields%20Financial%20Incentives.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. Since DEQ has a Brownfields Memorandum of Agreement with EPA, the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) enforcement bar applies to eligible response sites that complete DEQ's program.

Upon completion of projects under its jurisdiction, for which OCC has issued a COC or a No Action Necessary, 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 and/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

- DEQ Brownfields Program features 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 but is not limited to crude oil, saline produced water/brine, gasoline, and diesel.

Institutional Controls (IC)

Institutional Controls (IC) are allowed if they adequately protect the public. DEQ has authority to implement land use controls, if necessary.

IC Tracking: DEQ tracks active and completed sites on DEQ's Brownfields Public Record. When the certificate is issued the site is entered into the agency's web-based 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 through any required after-action, long-term monitoring or long-term stewardship requirements. Participants must reimburse DEQ for its oversight costs. DEQ audits the completed sites and ICs every five years.

IC Monitoring: If long-term monitoring or stewardship is required at a DEQ site, a plan must be in place for long-term management, including a plan for financial assurance and a contingency plan for groundwater remedies if contamination does not diminish over time, prior to a Brownfields Certificate being issued.

The following Web address is the DEQ's public database that maintains an inventory of sites, maps sites, and/or tracks institutional controls:

<http://deq.maps.arcgis.com/home/index.html>

DEQ has a direct link that maps all ICs for the agency:

<http://arcg.is/2m99aNZ>

Under the OCC Brownfields Program, institutional controls (IC) are one of the many choices that can be made at a site in order to protect the public. OCC currently has an ArcGIS based public record that contains information for ICs at all sites that have completed brownfields actions through its program. The Brownfields Public Record is at:

<http://www.occeweb.com/og/brownfields/bfpub.htm>.

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 Cleanup Program (VCP)

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

Voluntary Cleanup Program (VCP) Brownfields Response Program (BRP) Railroad Commission (RRC) of Texas

P.O. Box 12967
Austin, TX 78711-2967
<http://www.rrc.texas.gov/oil-gas/environmental-cleanup-programs/>

Contacts:

Voluntary Cleanup Program Manager

Chris Moore
chris.moore@rrc.state.tx.us
512-463-3384

TCEQ Brownfields Site Assessment Program MC 221

P.O. Box 13087
Austin, Texas 78711-3087
<http://www.tceq.texas.gov/goto/bsa>

Contacts:

Brownfields Program Manager

Kristy Livingston
kristian.livingston@tceq.texas.gov
512-239-2252

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.

www.tceq.texas.gov/goto/vcp | www.tceq.texas.gov/goto/iop | 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). <http://www.rrc.texas.gov/oil-gas/environmental-cleanup-programs/site-remediation/>

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. Texas 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 in the VCP program, parties will receive a COC from TCEQ or RRC, which states that all non-responsible parties are released from all liability provided by Texas Health and Safety Code, Chapter 361, Section 361.6035 and Chapter 91 Subchapter O, Texas Natural Resources Code.

In the TCEQ Innocent Owner/Operator Program (IOP), innocent owners and operators may receive an Innocent Owner/Operator Certificate (IOC) which confirms immunity from liability under Texas Health and Safety Code, Chapter 361, Section 361.751.

Program Elements

Methods/Standards/Controls

The Texas Risk Reduction Program (TRRP) follows a Risk-Based Corrective Action process (RBCA) that allows for the use of engineering and

institutional controls. All TCEQ and RRC sites are evaluated using the TRRP rule, 30 Texas Administrative Code (TAC) Chapter 350. In the TCEQ VCP, site cleanups of releases from regulated underground and aboveground storage tanks are evaluated using the Petroleum Storage Tank Rules, 30 TAC Chapter 334. A VCP applicant may use state-developed cleanup levels or site-specific data to develop site-specific cleanup levels.

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's jurisdiction includes all other solid, industrial, and hazardous waste.

Institutional Controls (IC)

Institutional controls must be placed in the real property records of the county in which the property is located 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 institutional controls. This link also provides additional information regarding contaminated sites in the state. www.tceq.texas.gov/goto/vcp
<http://www.rrc.texas.gov/oil-gas/environmental-cleanup-programs/site-remediation/voluntary-cleanup-program/>

Other Land Programs

Petroleum Storage Tank (PST) Program (TCEQ)

https://www.tceq.texas.gov/agency/data/enf_clean_data.html

Superfund Program (DEQ)

https://www.tceq.texas.gov/remediation/dry_cleaners/index.html

Voluntary Cleanup Program (VCP)

<https://www.tceq.texas.gov/remediation/superfund/index.html>

PROGRAM DETAILS

- **Funding Source(s) for the Program:**
State remediation fund and federal grants
- **Cost to Enter Program or Fees for Service:** \$1,000 application fee for VCP and IOP; applicant must reimburse TCEQ for the direct costs of oversight. For VCP, this fee can be waived for government entities and non-profit organizations. There is no fee to apply to the Brownfields Program.
- **Sites Enrolled in VCP:**
TCEQ – As of January 2017, the VCP had received over 2,500 applications representing dry cleaners, manufacturing facilities, shopping centers, warehouses, auto-related businesses, and other commercial and industrial enterprises.
RRC – As of January 2017, over 100 sites were entered into the VCP and BRP.
- **Sites Completed under VCP:**
TCEQ – As of January 2017, over 2,000 sites were issued Certificates of Completion (COC).
RRC – As of January 2017, over 10 brownfields certificates and 50 VCP certificates have been granted.

EPA REGION 7

IOWA • KANSAS • MISSOURI • NEBRASKA

REGION 7 PROGRAM HIGHLIGHTS

Iowa, Kansas, Missouri and Nebraska have used the funding to conduct assessments on nearly 900 properties, clean up over 30 properties, create over 800 jobs, and leverage nearly \$130 million.

In 2017, communities across the Midwest will receive \$1.75 million from EPA to empower communities and stakeholders to work together with their states to prevent, assess, safely clean up, and sustainably reuse brownfields. EPA Region 7 states provide crucial support to these communities to both access the EPA funding and to effectively use the resources to achieve the overall outcomes that Congress intended.

EPA Region 7 states continue to support community-led redevelopment projects and actively seek out opportunities for increased collaboration in mutually beneficial projects across the Heartland.

*Missouri River,
Montana*

Brownfield Redevelopment Program and Land Recycling Program (LRP)

Iowa Department of Natural Resources (IDNR)

Wallace State Office Building
502 East 9th Street
Des Moines, IA 50319
<http://www.iowadnr.gov/brownfields/>

Contacts:

Program Coordinator

Mel Pins
mel.pins@dnr.iowa.gov
515-725-8344

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. Tools to assist with this process are provided on IDNR's website, including links to the Contaminated Sites Database, Statewide Standards, Cumulative Risk Calculator, Storage Tanks Database, Risk-Based Corrective Action Application/guidance documents, LUST Electronic Records, Historic Aerial Photos, and Coal Mine Maps. <http://www.iowadnr.gov/brownfields/>

Financial Elements

Assessment and Cleanup Funding

- Iowa requires small and large quantity generators and anyone that treats, stores, disposes of or transports hazardous waste in Iowa to pay appropriate fees. The Hazardous Waste Remedial (HWR) Fund is then used to conduct 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) State and Tribal 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 brownfield sites, with Section 128(a) matching funds available up to \$25,000 per project.

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 brownfield sites can receive a 24% tax credit of up to \$1,000,000 per project. <https://www.iowaeconomicdevelopment.com/brownfield>

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.

PROGRAM DETAILS

- Funding Source(s) for the Program:** Federal grants (69%), oversight fees (26%), and state cleanup fund (5%)
- 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, with billing of enrollees for state oversight occurring on a quarterly basis.
- Sites Enrolled in VCP:** As of January 2017, a total of 29 sites were actively enrolled in the program.
- Sites Completed under VCP:** As of January 2017, 72 sites completed the program.

- 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.iowadnr.gov/brownfields/>

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 contains 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.iowadnr.gov/Environmental-Protection/Land-Quality/Contaminated-Sites/Land-Recycling-Program-LRP>

Other Land Programs

Underground Storage Tanks (USTs) Program

<http://www.iowadnr.gov/Environmental-Protection/Land-Quality/Underground-Storage-Tanks>

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>

Contacts:

Brownfields Coordinator

Gary Richards

gary.richards@ks.gov

785-291-3246

PROGRAM DETAILS

- **Funding Source(s) for the VCPRP 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.
- **VCP Sites:** As of January 2017, 351 properties were actively participating in the program. Active sites are defined as being in the investigation phase or in cleanup.
- **Sites Completed under VCP:** As of January 2017, the VCPRP issued 247 No Further Action letters resulting in approximately 2,691 acres of land being remediated.

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/> and <http://www.kdheks.gov/brownfields/>

Financial Elements

Assessment and Cleanup Funding

- Brownfields Targeted Assessment Program: 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.

Environmental Liability Relief Provisions

The Contaminated Property Redevelopment Act (K.S.A. 65-34,177-186), signed into law on May 9, 2016, authorizes KDHE to issue a Certificate of Liability Release (CELR) to certain prospective purchasers of contaminated properties. CELRs may only be issued for properties acquired after July 1, 2016.

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/>

Contaminants Covered

All contaminants and pollutants covered including lead, asbestos and polychlorinated biphenyls (PCBs). <http://www.kdheks.gov/remedial/vcp/>

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 institutional controls. As of August 2017, 206 environmental use controls have been recorded on properties in Kansas. This link also provides additional information regarding contaminated sites in the state.

http://www.kdheks.gov/remedial/isl_disclaimer.htm

Other Land Programs

State Cooperative Program

<http://www.kdheks.gov/scp/>

Storage Tanks Program

<http://www.kdheks.gov/tanks/>

Drycleaning Program

<http://www.kdheks.gov/ars/index.html#drycl>

Superfund Program

http://www.kdheks.gov/ars/superfund_unit.html

Orphan Sites Program

<http://www.kdheks.gov/ars/swp/>

Brownfields / Voluntary Cleanup Program (BVCP) Missouri Department of Natural Resources (MoDNR) Hazardous Waste Program

P.O. Box 176
Jefferson City, MO 65102-0176
<http://www.missouribrownfields.com/>

Contacts:

Scott Huckstep
Scott.Huckstep@dnr.mo.gov
573-526-8913

PROGRAM

First established by the state legislature in 1994, Missouri Department of Natural Resources' (MoDNR) 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. <http://www.MissouriBrownfields.com>

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 and its related statutes and regulations will sunset/expire on August 28, 2017.
- 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 (EIERA) may provide loans and sub-grants to support cleanup activities for sites contaminated with petroleum and 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 brownfields properties.

Incentives

The Missouri Department of Economic Development (DED) may issue tax credits for up to 100% 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. <https://ded.mo.gov/programs/community/brownfield-redevelopment-program>

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.

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Federal grants and oversight fees
- **Cost to enter program or fees for service:** The BVCP is a fee-for-service program where the participant pays the department's site-specific oversight costs and overhead. The application fee is \$200 and up to \$5,000 initial deposit is made toward the costs. Currently, oversight time is billed at \$65 - 80 per hour based on personnel salaries plus overhead. The total oversight cost depends on the nature and extent of contamination and other site-specific factors. After completion or withdrawal, any remaining deposit balance is refunded. The average cost per site is \$4,000. Non site specific work is supported by 128(a) grant funding.
- **Sites Enrolled in VCP:** As of February 2017, there are 220 active sites enrolled in the program.
- **Sites Completed under VCP:** As of February 2017, 851 Certificates of Completion (COC) have been issued.

- 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://dnr.mo.gov/env/hwp/departmentmrbca.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)

Under the MRBCA guidance, the site remediation can be complemented by IC and/or engineering controls. The most used IC 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 has 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 ultimately intends for this system to address all remediated sites in Missouri, regardless of which regulatory area of the Hazardous Waste Program provides remediation oversight.

IC Tracking: Sites with ICs are listed on the BVCP website.

IC Oversight and Monitoring: Annual inspection visits by a BVCP project manager are required.

The following Web address is a direct link to the state's public information system that provides an inventory of hazardous substance investigation and remediation sites, including any related ICs: <http://dnr.mo.gov/ESTART/>

Other Land Programs

Petroleum Storage Tanks Program

<http://dnr.mo.gov/env/hwp/tanks/>

Superfund Program

<http://dnr.mo.gov/env/hwp/sfund/>

Voluntary Cleanup Program (VCP) Nebraska Department of Environmental Quality (NDEQ)

1200 N Street, Suite 400
P.O. Box 98922
Lincoln, Nebraska 68509
<http://deq.ne.gov/>

Contacts:

Section Supervisor, Remediation Division

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BVCP/Brownfields Coordinator, Superfund/VCP Unit

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402-471-6411

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://deq.ne.gov/NDEQProg.nsf/OnWeb/VCP>

Financial Elements

Assessment and Cleanup Funding

NDEQ's Section 128(a) assessment program provides funding to cover the costs of environmental site assessments and 50% of costs (up to \$10,000) to remove and dispose of asbestos, for eligible applicants.

Liability Relief Provisions

None

Program Elements

Methods/Standards/Controls

NDEQ developed a comprehensive VCP 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 that presents a conceptual site model based on a thorough investigation, and a remedial action work plan that 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 guidance document includes the development of remediation goals for soil gas and groundwater that would be protective of indoor air quality to address the vapor intrusion pathway.

Contaminants Covered

Hazardous substances, pollutants and contaminants, petroleum, asbestos, lead-based paints, and polychlorinated biphenyls (PCBs) are all covered.

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Federal grants and application fee and initial deposit
- **Cost to enter program or fees for service:** Non-refundable application fee of \$2,000 and refundable initial deposit of \$3,000. The \$2,000 application fee covers indirect costs of the program. The \$3,000 initial deposit covers time spent on review and oversight of a site enrolled in the program. If review and oversight costs exceed the \$3,000 initial deposit, additional fees will be required and are typically billed to the applicant on a monthly basis.
- **Sites Enrolled in VCP:** As of January 2017, 21 sites are active in the voluntary cleanup program.
- **Sites Completed under VCP:** As of January 2017, 22 sites have successfully completed cleanup requirements under the VCP and have received "No Further Action" (NFA) letters from Nebraska Department of Environmental Quality (NDEQ).

Institutional Controls (IC)

Institutional controls in accordance with the Nebraska Uniform Environmental Covenants Act are recommended.

IC Tracking: Institutional controls are tracked as part of the Public Record required by federal Section 128(a).

IC Oversight: NDEQ reviews and approves remedial action plans and performs oversight of implementation of the remedial action, including the implementation of institutional controls.

IC Monitoring: NDEQ performs periodic monitoring of ongoing long-term operation, maintenance and monitoring activities, including monitoring of institutional controls.

Current information on the Public Record and IC tracking system can be found at: <http://deq.ne.gov/NDEQProg.nsf/OnWeb/VCPPR>

Other Land Programs

Petroleum Remediation Program

<http://deq.ne.gov/NDEQProg.nsf/OnWeb/LUST>

Superfund Program

<http://deq.ne.gov/NDEQProg.nsf/OnWeb/SF>

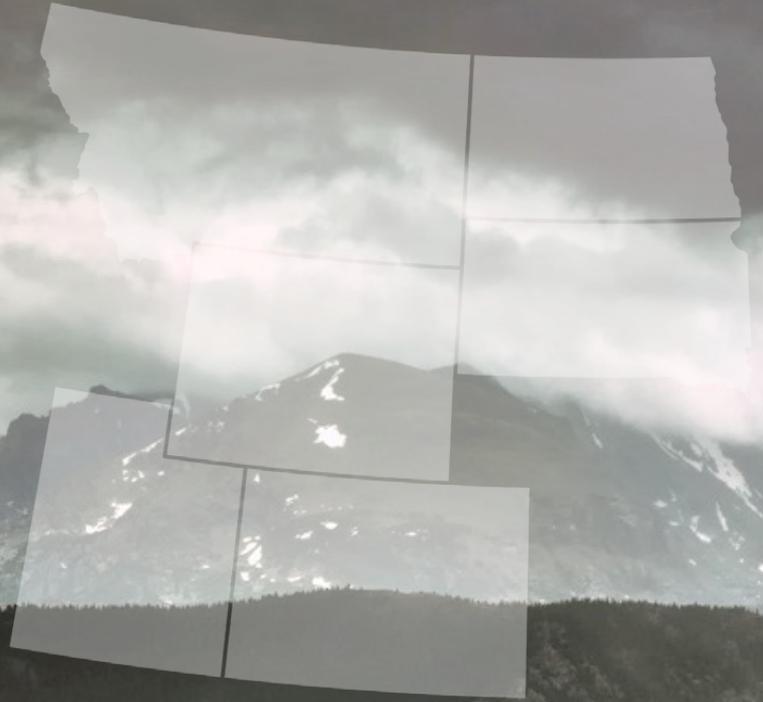
EPA REGION 8

COLORADO • MONTANA • NORTH DAKOTA
SOUTH DAKOTA • UTAH • WYOMING

REGION 8 PROGRAM HIGHLIGHTS

Revolving Loan Fund grantees in Montana, Colorado and Utah have provided over \$21 million in loans and grants that have resulted in 50 cleanups, \$1 billion in dollars leveraged, 3,662 jobs and over 220 acres ready-for-reuse.

Of the 341 cleanups that have been completed nationally using Section 128(a) Response Program funds, Region 8 states responsible for completing 81 of those; that's 25% of all Section 128(a) funded cleanups.



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>

Contacts:

Superfund/

Brownfields Unit Leader

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303-692-3404

Brownfields Program

Coordinator

Mark Rudolph

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303-692-3311

Voluntary Cleanup and Redevelopment Program

Fonda Apostolopoulos

fonda.apostolopoulos@state.co.us

303-692-3411

PROGRAM DETAILS

- **Funding Source(s) for the Program:** VCP fees (80%) and federal grants (20%)
- **Cost to enter program or fees for service:** Application fee is \$2,000. Hourly review fee is \$95.
- **Sites Enrolled in VCP:** Approximately 70 applications are processed each year.
- **Sites Completed under VCP:** As of January 2017, a total of 1,195 sites have been completed under the VCP.

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. <https://www.colorado.gov/pacific/cdphe/voluntary-cleanup>

Financial Elements

Assessment and Cleanup Funding

- Colorado Brownfields Revolving Loan Fund – Encourages the cleanup of unused or under-used contaminated properties. The Fund offers financing with reduced interest rates, flexible loan terms, and flexibility in acceptable forms of collateral. The fund can also provide sub-grants to local governments. <https://www.colorado.gov/pacific/cdphe/brownfields-revolving-loan-fund>
- 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.

Incentives

- Sub-Grants – State Brownfields grants are available to local governments and non-profits to help pay for cleanup of contaminated properties and facilitate redevelopment of those properties.
- State Income Tax Credit for Environmental Remediation of Contaminated Land - In 2014, the Colorado General Assembly passed Senate Bill 14-073 providing a tax credit for environmental remediation of contaminated land within the State. The law provided a 40 % tax credit on cleanup expenses up to \$750,000 and a 30% credit on cleanup expenses greater than \$750,000 up to \$1,500,000. Taxpayers and qualified entities may transfer the credit.

Liability Relief Provisions

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.

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. 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. 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:

<https://www.colorado.gov/pacific/cdphe/hmcovenants>.

IC Oversight and Monitoring: Colorado's long-term stewardship provisions include monitoring, ICs and enforcement.

The following Web address is a link to the state's public database that maintains an inventory of sites, maps sites, and/or tracks institutional controls. The links also provide additional information regarding contaminated sites in the state. <https://www.colorado.gov/pacific/cdphe/categories/services-and-information/environment/environmental-cleanup>

Other Land Programs

Superfund Program

<https://www.colorado.gov/pacific/cdphe/superfund-sites>

Montana Department of Environmental Quality (DEQ) Brownfields Waste Management & Remediation Division

P.O. Box 200901

Helena, MT 59620-0901

<http://deq.mt.gov/Land/Brownfields>

Contacts:

DEQ's Brownfields Coordinator

Jason Seyler

jseyler@mt.gov

406-444-6447

DEQ's Petroleum Brownfields Coordinator

Brandon Kingsbury

bkingsbury@mt.gov

406-444-6547

PROGRAM

The Montana DEQ's Brownfields Program works collaboratively with internal and external stakeholders to address Hazardous Substance and Petroleum Brownfields sites across Montana. The program provides both technical and financial expertise on the assessment and cleanup of Brownfields properties. DEQ's Brownfields Program also provides grant writing assistance, outreach, and workshops for communities interested in Brownfields. <http://deq.mt.gov/Land/Brownfields>

Financial Elements

Assessment and Cleanup Funding

- Information on available grants can be found at: <http://deq.mt.gov/Land/brownfields/grants>
- Montana Assessment grants are discussed at: <http://deq.mt.gov/Land/brownfields/targetedba>
- Loans available through state Board of Investments program may apply to brownfield sites.
- 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/divisions/cardd/resource-development/reclamation-and-development-grants-program>
- 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.

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/Land/StateSuperFund/vcra>

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 DETAILS

- **Funding Source(s) for DEQ's Brownfields 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 State Superfund Voluntary Cleanup and Redevelopment Act (VCRA) program must agree to reimburse the state for all administrative costs. This cost recovery is based on actual cost. Oversight costs on non-State Superfund Brownfields cleanup projects are covered by federal grants.
- **Sites Completed under VCP:** As of January 2017, 38 sites have been "closed" under the VCP process by DEQ.

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 are 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 are cleaned up to MT DEQ standards.

Institutional Controls (IC)

For the VCP, institutional controls allowed as appropriate.

NORTH DAKOTA

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/Brownfields/>

Contacts:

Brownfield Redevelopment Program

Carrie Geyer

geycr1@michigan.gov

517-284-5182

Brownfield Redevelopment Assessments

Joseph Walczak

walczakj@michigan.gov

517-284-5167

PROGRAM DETAILS

- **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 January 2017, 3 active sites are currently enrolled in the program.
- **Sites Completed under Program:** As of January 2017, 46 sites have completed full or partial cleanups, and 52 sites have completed Phase I or Phase II assessments through the program.

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.

Financial Elements

Assessment and Cleanup Funding

The state is using Section 128(a) Response Program grant funds from U.S. EPA to conduct site assessments and/or contamination removal activities at Brownfield sites.

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 institutional controls 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 institutional controls 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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://www.ndhealth.gov/WM/Brownfields/BrownfieldsSitesInNorthDakota.pdf>

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

Contacts:

Brownfields Coordinator

Kim McIntosh

Kim.McIntosh@state.sd.us

605-773-3296

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>

Financial Elements

Assessment and Cleanup Funding

The state is using Section 128(a) Response Program grant funds from U.S. EPA to conduct Phase I and II Assessments of a limited number of brownfield sites each year. These sites may include mine-scarred lands, petroleum sites, and sites impacted by solvents, heavy metals asbestos, or controlled substances. As of January 2017, funds were used to perform assessment and cleanup activities on 76 brownfield sites.

Liability Relief Provisions

Legislation (SDCL Chapter 74:05:12) was passed to establish additional liability provisions for sites designated as brownfield sites 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.

PROGRAM DETAILS

- **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 Regulated Substance Response Program:** As of January 2017, the program has assisted over 13,502 sites through the voluntary cleanup program (VCP). Each year approximately 250 new sites are entered into the VCP program.
- **Sites Completed under Regulated Substance Response Program:** As of January 2017, over 13,146 sites have received completion or closures letters through the state's program.

Institutional Controls (IC)

The state allows the use of institutional controls (IC) on brownfield sites, spills, or releases both in the assessment and remediation phase of the project. The state's database (<http://denr.sd.gov/des/gw/Spills/Spills.aspx>) contains information on state rules, assessment and cleanup standards, and provides a mechanism to track long-term institutional controls.

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: 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 sites, maps of sites by community, and/or information on institutional controls being used at a particular site. This link also provides additional detailed information regarding each contaminated site in the state.

<http://arcgis.sd.gov/server/denr/spillsviewer/>

Other Land Programs - <http://denr.sd.gov/data.aspx>

Storage Tanks Program

<http://arcgis.sd.gov/server/denr/tanksdb/default.html>

Superfund Program

<http://denr.sd.gov/des/gw/Superfund/Superfund.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/index.htm>

Contacts:

VCP/Brownfields Section Manager

Bill Rees
Brees@utah.gov
801-536-4167

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. <http://www.superfund.utah.gov/vcp.htm>

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 for eligible applicants.

Liability Relief Provisions

The VCP offers a COC with limited liability relief for non-responsible parties, future owners, and lenders. The DERR also has a Brownfields tool known as an Enforceable Written Assurance (EWA). The Utah Hazardous Substances 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. Through March 2017 (FFY 17), 10 EWA applications received and 8 EWAs issued.

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 institutional controls, site specific risk-based levels relying on institutional controls, 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.

PROGRAM DETAILS

- **Funding Source(s) for the Brownfields Program:** Federal grants (100%)
- **Cost to enter VCP 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. The rate is specified in the UDEQ's approved fee schedule.
- **Sites Enrolled in VCP:** Through March 2017 (FFY 17) and consistent with the Program Activity Levels (PALs), 44 properties (or sites) enrolled in the VCP.
- **Sites Completed under VCP:** Through March 2017 (FFY 17) and consistent with the PALs, one Certificate of Completion (COC) issued and one Certificate of Completion amended.

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 Covenants 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 various UDEQ/DERR Web pages 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 institutional controls.

IC Monitoring: The UDEQ/DERR actively manages VCP 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 provides information regarding institutional controls. The links also provide additional information regarding contaminated sites in the state.

<http://www.superfund.utah.gov/vcp.htm>

<https://enviro.deq.utah.gov/>

<https://deq.utah.gov/ProgramsServices/programs/cercla/voluntarycleanup/index.htm>

http://www.eqedocs.utah.gov/Default.aspx?SSName=DERR_CERCLA_EC

Other Land Programs

Underground Storage Tank (LUST) Program

<http://www.undergroundtanks.utah.gov/>

Methamphetamine Cleanup

<https://deq.utah.gov/ProgramsServices/programs/cercla/drugcleanup/index.htm>

Superfund Program

<http://www.superfund.utah.gov/>

Voluntary Remediation Program (VRP) / Brownfields Assistance Wyoming Department of Environmental Quality (DEQ)

200 W. 17th Street
Cheyenne, WY 82002

<http://deq.wyoming.gov/shwd/voluntary-remediation-program/>

Contacts:

VRP Program Manager

Jerry Breed
jerry.breed@wyo.gov
307-777-5617

Brownfields/Orphan Sites Program Supervisor

Cindi Martinez
cindi.martinez@wyo.gov
307-777-2948

PROGRAM

Enacted in the 2000 session of the Wyoming Legislature, the Voluntary Remediation of Contaminated Sites statute 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.wyoming.gov/shwd/brownfields-assistance/>

Financial Elements

Assessment and Cleanup Funding

A variety of technical assistance is available to assist with brownfields reuse projects. <http://deq.wyoming.gov/shwd/brownfields-assistance/>

Liability Relief Provisions

DEQ has three types of liability assurances: Covenants Not to Sue, Certificates of Completion, and No Further Action letters.

<http://deq.wyoming.gov/shwd/incentives/>

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 on site; and supplemental requirements.

Contaminants Covered

All contaminants are eligible in the program.

Institutional Controls (IC)

The program uses institutional controls.

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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://deq.wyoming.gov/shwd/voluntary-remediation-program/resources/site-lists-maps/>

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Federal grants
- **Cost to enter VRP program or fees for service:** \$550 application fee covers the first 10 hours of oversight. Additional oversight is billed at a rate of \$55/hour. Charges are invoiced monthly through DEQ accounting. Fees collected do not support the program.
- **Sites Enrolled in VRP:** As of January 2017, a total 256 sites were entered in the program; 112 sites were open; 6 sites entered the program between January, 1 2016 and December 31, 2016; 14 sites have been provided Brownfields Assistance.
- **Sites Completed under VRP:** As of January 2017, 111 sites had complete cleanups through the program.

Other Solid and Hazardous Waste Division Programs

Agriculture Voluntary Investigation and Cleanup Program (AgVIC)

<http://deq.wyoming.gov/shwd/storage-tank/>

Hazardous Waste and Corrective Action

<http://deq.wyoming.gov/shwd/hazardous-waste-permitting-corrective-actions/>

EPA REGION 9

ARIZONA • CALIFORNIA • HAWAII • NEVADA
PACIFIC ISLANDS • GUAM • AMERICAN SAMOA

REGION 9 PROGRAM HIGHLIGHTS

EPA Region 9 states have used Section 128(a) Response Program funding to conduct assessments on over 130 properties, clean up 34 properties, create over 447 jobs, and leverage nearly \$2.5 million.

Many EPA Region 9 communities have focused their brownfields redevelopment on overlooked and underutilized properties within the urban core that are ideal for high-density infill development and transit-oriented development (TOD). These projects provide additional housing with easy access to jobs and services (reduce greenhouse emissions and stormwater runoff), increase property values, inspire further revitalization and stabilize communities by attracting new resources and a greater diversity of income levels.

Voluntary Remediation Program / Brownfields Assistance Program Arizona Department of Environmental Quality (ADEQ) Waste Programs Division

1110 W. Washington Street
Phoenix, AZ 85007

Contacts:

Voluntary Remediation Program (VRP) Manager

Brian Stonebrink

Stonebrink.Brian@azdeq.gov

602-771-4197

Brownfields Coordinator

Jennie E. Curé

jec@azdeq.gov

602-771-2296

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. <http://www.azdeq.gov/VRP>

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.azdeq.gov/brownfields>

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 for any potential WQARF liability for existing contamination, if certain statutory conditions are met. <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://legacy.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

PROGRAM DETAILS

- **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 ADEQ.
- **Sites Enrolled in VRP:** In 2016, 11 new sites were added to the program. As of February 2017, 56 sites are currently in the program.
- **Sites Completed under VRP:** In 2016, 18 sites were completed and as of February 2017, 246 sites have completed cleanup and have been closed through the program.

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.

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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://www.azdeq.gov/databases/deursearch.html>

Other Voluntary Cleanup Programs

Underground Storage Tanks (UST) Program

<http://www.azdeq.gov/UST>

Hazardous Waste Program

<http://www.azdeq.gov/programs/waste-programs/hazardous-waste-management>

Superfund Program

<http://www.azdeq.gov/environ/waste/sps/index.html>

Brownfields and Environmental Restoration Program California Department of Toxic Substances Control (DTSC)

700 Heinz Avenue
Berkeley, CA 94710
<http://www.dtsc.ca.gov/SiteCleanup/>

Contacts:

Maryam Tasnif Abbasi
Maryam.Tasnif-Abbasi@dtsc.ca.gov
714-484-5489

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. <http://www.dtsc.ca.gov/SiteCleanup/Brownfields>
<http://www.calepa.ca.gov/Brownfields/> | http://www.swrcb.ca.gov/water_issues/programs/brownfields/

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.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/BrownLandReuse.cfm>
- Prospective Purchaser Agreements and Liability Relief - <http://www.dtsc.ca.gov/SiteCleanup/Brownfields/BrownProsPurchaser.cfm>
- Site Designation Committee - <http://www.calepa.ca.gov/Programs/SiteDesig/>
- Local Government Agency Program (AB 440) - Provides immunity from liability for local agencies and subsequent property purchasers when local agencies clean up hazardous substance releases on a blighted property in accordance with specified procedures. <http://www.dtsc.ca.gov/SiteCleanup/Brownfields/BrownfieldsVoluntaryProgram.cfm>

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 brownfield sites 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

PROGRAM DETAILS

- **Funding Source(s) for the Program:** State Accounts and reimbursements, federal grants
- **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 January 2017, 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 January 2017, DTSC staff issued either certifications or no further action decisions on over 561 voluntary cleanup sites.

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. <https://dtsc.ca.gov/SiteCleanup/SCLandUseRestrictionSites.cfm> and 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.

Other Land Programs

Voluntary Cleanup Program

<https://dtsc.ca.gov/SiteCleanup/Brownfields/BrownfieldsVoluntaryProgram.cfm>

Underground Storage Tanks (UST) Program

http://www.waterboards.ca.gov/water_issues/programs/ust/

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/Leaders/HEER/brownfields-redevelopment-program>

Contacts:

Steve Mow

Stephen.mow@doh.hawaii.gov

808-586-7574

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.

The State of Hawaii's Fast Track Clean-up Program (FTC) offers 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.

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.

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 DETAILS

- **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 January 2017, over 40 contaminated properties have been enrolled in the VRP program. Today, there are a total of 10 active VRP sites in the program.
- **Sites Completed under VRP:** As of January 2017, HDOH has issued over 25 Letters of Completion for sites.
- **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 2013, 150 new sites have been added. As of June 2014, the HEER office was overseeing assessment and cleanup of 458 active state sites
- **Sites Completed under State Program:** Between FY 2009 and FY 2013, a total of 173 state sites have received NFA determinations.

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^{-6} must be met for a site to be considered clean. <http://eha-web.doh.hawaii.gov/eha-cma/documents/e1e1a0df-3001-4c51-9923-fc404786c7d1> and <http://eha-web.doh.hawaii.gov/eha-cma/Leaders/HEER/environmental-hazard-evaluation-and-environmental-action-levels>

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)

IC 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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://eha-web.doh.hawaii.gov/eha-cma/Leaders/HEER/public-records>

Other Voluntary Cleanup Programs

Underground Storage Tank (UST) Program

<http://health.hawaii.gov/shwb/ustlust-data/>

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/>

Contacts:

Brownfields Manager

David Friedman
dfriedman@ndep.nv.gov
775-687-9385

PROGRAM DETAILS

- **Funding Source(s) for the Program:** Federal grants
- **Cost to enter Voluntary Cleanup 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). Costs for NDEP oversight and project management are billed as incurred on an hourly rate basis.
- **Sites Enrolled in VCP:** As of January 2017, 0 site enrolled in the program.
- **Sites Completed under VCP:** As of January 2017, 1 site had completed cleanup through the program.

PROGRAM

Nevada's Section 128(a) Brownfields 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>

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
- 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

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 that 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 brownfield program and 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 Project Plan (QAPP) that U.S. Environmental Protection Agency (EPA) Region 9 approves 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 QAPrP. 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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://ndep.nv.gov/bca/data.htm>

Other Land Programs

Petroleum Program

<http://ndep.nv.gov/bca/fundhome.htm>

Superfund Program

<http://ndep.nv.gov/bca/spfdhome.htm>

Brownfields Response Program / American Samoa Environmental Protection Agency (AS-EPA)

P.O. Box PPA, Utulei Office Building
 Pago Pago, American Samoa 96799
<http://www.epa.as.gov/>

Contacts:

Brownfields Coordinator

Ioane Tomanogi
ioane.tomanogi@epa.as.gov
 684-633-2304

PROGRAM DETAILS

- **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

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://www.epa.as.gov/brownfields-response>

Financial Elements

At this time, all program funding is provided by U.S. EPA 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.

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)

Institutional controls are determined on a case-by-case basis.

Other Land Programs

Hazardous Materials

<http://www.epa.as.gov/hazardous-materials>

Guam Environmental Protection Agency Green Parcel Guam Environmental Protection Agency (Guam EPA)

P.O. Box 22439 GMF
 Barrigada, GU 96913
<http://epa.guam.gov/>

Contacts:

Program Manager

Walter S. Leon Guerrero
walter.leonguerrero@epa.guam.gov
 671-300-4751

PROGRAM DETAILS

- **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

PROGRAM

Guam EPA's Green Parcel's 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. Green Parcel has worked with a contractor to develop the Pacific Basin Environmental Screening Levels (PBESLs) for Guam. The PBESLs will allow the environmental contractors a unified approach to site assessment and clean-up. <http://epa.guam.gov/programs/hazardous-waste/>

Financial Elements

Assessment and Cleanup Funding

Guam EPA is using Section 128(a) Response Program funds to conduct site assessment and to identify cleanup activities.

Program Elements

Under Section 128(a) Response Program funding, Guam EPA is in the process of establishing 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.

Other Land Programs

Underground Storage Tank (UST) Program

<http://epa.guam.gov/programs/hazardous-waste/>

NORTHERN MARIANA ISLANDS

Brownfields Program Commonwealth of the Northern Mariana Islands (CNMI) Bureau of Environmental and Coastal Quality (BECQ) - Division of Environmental Quality (DEQ) Site Assessment and Remediation Branch

PO Box 501304
Saipan, MP 96950
<http://www.deq.gov.mp/>

Contacts:

Brownfields Coordinator
Ray Masga
raymasga@becq.gov.mp
670-664-8500

PROGRAM DETAILS

- **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

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 assessment 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) State and Tribal Response Program; and coordinating with the U.S. Army Corps of Engineers (USACE) with Formerly Used Defense Site activities. <http://www.deq.gov.mp/sec.asp?secID=8>

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 and EPA Brownfields Petroleum Assessments grant. Both funding sources will be used for conducting Phase I and Phase II Environmental Site Assessments (ESA).

Program Elements

Methods/Standards/Controls

CNMI DEQ prepared an Environmental Screening Levels (ESLs) document in 2005 and is periodically updated; last update, June 2015. 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.asp?secID=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 institutional controls. This link also provides additional information regarding contaminated sites in CNMI. <http://www.deq.gov.mp/article.asp?secID=8&artID=96>

Other Voluntary Cleanup Programs

Pesticides and Storage Tanks Program

<http://www.deq.gov.mp/sec.asp?secID=7>

Toxic Waste Management Program

<http://www.deq.gov.mp/sec.asp?secID=11>

EPA REGION 10

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REGION 10 PROGRAM HIGHLIGHTS

EPA Region 10 states have used Section 128(a) Response Program funding to conduct assessments on over 321 properties, clean up 38 properties, create over 650 jobs, and leverage nearly \$54.8 million.

In 2017, communities across the Northwest and Alaska will receive \$15 million from EPA to help revitalize former industrial and commercial sites, transforming them from abandoned and blighted properties into community assets.

*Brown Bear,
Denali National
Park, Alaska*

Alaska Department of Environmental Conservation (DEC) Division of Spill Prevention and Response, Contaminated Sites Program

410 Willoughby Avenue, Suite 303

Juneau, Alaska 99811-1800

<http://dec.alaska.gov/spar/csp/brownfields.htm>

Contacts:

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Manager

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907-465-5076

Environmental Program

Specialist

Christy Howard,

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907-465-5206

Environmental Program

Specialist

Lisa Griswold

lisa.griswold@alaska.gov

907-269-2021

PROGRAM DETAILS

- **Funding Source for the Program:** Federal Funding.
- **Cost to Enter Program or Fees for Service:** There are no fees or cost recovery associated with brownfields assistance on eligible projects, which can include both assessment and cleanup services; however, DEC's Contaminated Sites Program, which includes the DEC brownfields element, 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.
- **DEC's Contaminated Sites Program Public Database:** As of March 2017, 2,270 "Open" sites were listed on DEC's Contaminated Sites Database. An additional 8 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.
- **Closed Sites:** As of March 2017, 4,026 listed sites are identified as having a status of "Cleanup Complete," and 1,205 sites are listed with a status of "Cleanup Complete with Institutional Controls." http://dec.alaska.gov/spar/csp/db_search.htm

PROGRAM

The Alaska Department of Environmental Conservation's (DEC) Contaminated Sites Program (CSP) brownfields staff have developed resources to assist tribes, Alaska Native Corporations, city governments, and non-profit entities in identifying and assessing their brownfields sites.

Financial Elements

Assessment and Limited Cleanup Services

The CSP provides assessment or limited cleanup services to eligible applicants through its DEC Brownfields Assessment and Cleanup (DBAC) service, which targets eligible brownfields sites. The CSP also oversees assessment and cleanup projects at state-owned sites using state funding appropriated to DEC to reduce the state's pollution liability. However, these appropriations are no longer sufficient to support this work, so DEC is currently working with other state agencies to develop a new state-owned contaminated site management process. <http://dec.alaska.gov/spar/csp/bf-dbac.htm>

Liability Relief Provisions

The principal tool for providing liability relief is the Prospective Purchaser Agreement (PPA). PPA's are negotiated for specific sites that meet appropriate criteria, and where the existing site conditions were investigated and cleanup requirements 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

Under DEC's Division of Spill Prevention and Response (SPAR) Regulations (Title 18 of the Alaska Administrative Code, Chapter 75, 18 AAC 75), the responsible party (RP) is required to report and conduct appropriate site characterization and cleanup activities under the oversight of a DEC site 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

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 CSP 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 about 1,300 sites, of which approximately 209 are active sites where the controls have been established to protect human health and the environment during ongoing cleanup actions.

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/prog_issues.cfm

Contacts:

Brownfields Response Program Manager	Voluntary Cleanup Program Manager
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PROGRAM

Idaho's Land Remediation Act, or VCP, is found in Idaho Code 39-7201 et seq., and DEQ's 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. In 2004, DEQ established its Brownfields Revitalization and Environmental Site Response Program to facilitate the reuse of brownfield sites and works to develop Web tools, authorities, and guidance aimed at improving the efficiency of all DEQ remediation programs. <http://www.deq.idaho.gov/waste-mgmt-remediation/brownfields.aspx>

Financial Elements

Assessment and Cleanup Funding

The Community Reinvestment Pilot Initiative – DEQ reimburses a private party 70% 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 70% (up to \$150,000) and the private party is responsible for the remaining 30% (\$65,000). To date, 6 sites have received rebates. Four sites are still implementing workplans.

Incentives

Voluntary Cleanup Program Tax Incentives—Sites are eligible for a property tax reduction (not to exceed seven years) that is applied to 50% 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 who completed the cleanup 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. This fund is under the Idaho Department of Insurance and is not managed by the Idaho Department of Environmental Quality.

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

PROGRAM DETAILS

- **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 thereafter. If oversight costs exceed \$2,500 and the project isn't complete, another \$2,500 increment is requested. This occurs until the project is completed. There is no cost to participate in the brownfields site assessment program which is fully funded through the EPA Section 128(a) grant program.
- **Sites Enrolled in VCP:** As of March 2017, 17 sites were participating in the VCP.
- **Sites Completed under VCP:** As of March 2017, 22 sites were completed under the VCP.

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> or cleaning to site-specific standards developed using DEQ's Petroleum Risk Evaluation Manual and Software or another DEQ-approved risk evaluation methodology.

Contaminants Covered

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> (and the accompanying Guidance document).

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 and posts a copy of the recorded covenant on the Terradex Facility Mapper that is available here: <http://52.26.7.130/idaho/>

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 institutional controls. This link also provides additional information regarding contaminated sites in the state. www.deq.idaho.gov/waste-mgmt-remediation/brownfields.aspx

Other Land Programs

Underground Storage Tanks (UST) Program

www.deq.idaho.gov/waste/prog_issues/ust_lust/index.cfm

Brownfields Program / Voluntary Cleanup Program (VCP) Oregon Department of Environmental Quality (ODEQ)

700 NE Multnomah St., Suite 600
Portland, OR 97232

<http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/default.aspx>

Contacts:

Brownfields Coordinator

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503-229-5512

PROGRAM

The Voluntary Cleanup Program (VCP) has two pathways: traditional Voluntary Cleanup and Independent Cleanup Pathway (ICP). The Voluntary Cleanup Pathway provides ongoing project support from an Oregon DEQ 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 DEQ oversight costs, Prospective Purchaser Agreements (PPA), and public participation.

Financial Elements

Assessment and Cleanup Funding

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

- U.S. EPA funded the Oregon Coalition Brownfields Cleanup Fund with over \$7 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 brownfield sites. 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 the highest priority qualifying dry cleaner sites. To manage increasingly 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 DETAILS

- **Funding Source(s) for the Program:** Cost recovery from project participants and federal grants. The intent of ODEQ oversight fees, which amount to an average of about \$190 per hour, is to support program costs as fully as possible.
- **Cost to enter program or fees for service:** No deposit for VCP is required with Intent to Participate Form, but a \$5,000 deposit must be remitted when a VCP project manager is assigned. ICP requires a \$1,500 deposit. ODEQ typically waives the deposit for public-sector VCP/ICP participants, and has the discretion to revise deposit amounts for any participant. Once projects become active, ODEQ charges VCP and ICP participants on an hourly basis for project oversight. If project oversight costs exceed the deposit amount, ODEQ initiates monthly invoicing. Conversely, ODEQ refunds any portion of a VCP/ICP deposit not needed for a project. PPA application requires \$2,500 deposit to ODEQ to begin formal negotiation of the agreement.
- **Sites Enrolled in VCP:** As of January 2017, 250 sites are active in ODEQ's VCP.
- **Sites Completed under VCP:** As of January 2017, 1,149 sites received NFA letters through the VCP.
- **PPAs:** From 1996 through 2016, ODEQ issued 160 PPAs.

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.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/iecontrols.aspx>

IC Tracking: Properties with institutional controls 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 institutional controls. This link also provides additional information regarding contaminated sites in the state. <http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/ecsi.aspx>

Other Voluntary Cleanup Programs

Tanks Program

<http://www.oregon.gov/deq/tanks/Pages/default.aspx>

Dry Cleaning Program

<https://www.oregon.gov/deq/Hazards-and-Cleanup/Pages/Dry-Cleaner.aspx>

Orphan Sites Program

<https://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/Industrial-Orphan-Sites.aspx>

Prospective Purchaser Agreement Program

<http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/Prospective-Purchaser-Agreements.aspx>

Voluntary Cleanup Program (VCP) **Department of Ecology (Ecology)**

P.O. Box 47600
Olympia, WA 98504-7600

Contacts:

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Ecology Brownfields Program **Department of Ecology (Ecology)**

P.O. Box 47600
Olympia, WA 98504-7600

Contacts:

Alan Bogner
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360-407-7188

Brownfields Revolving Loan Fund **Department of Commerce (Commerce)**

P.O. Box 42525
Olympia, WA 98504-42525

Contacts:

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PROGRAM DETAILS

- **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 January 2017 2014, 4,637 total VCP sites.
- **Sites Completed under VCP:** As of January 2017, 2,536 No Further Action (NFA) determinations have been issued.

PROGRAM

Washington's brownfields program began with the adoption of the Model Toxics Control Act (MTCA), a citizen-mandated law that governs cleanup of hazardous waste sites in Washington, originally enacted through a voter's initiative. In 2013, a legislative update to MTCA statutorily defined the term "brownfield" in Washington and further defined and expanded components of the existing brownfields program. Washington State has a cooperative approach to brownfields cleanup and redevelopment, and 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

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

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 institutional controls 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 institutional controls: <https://fortress.wa.gov/ecy/gsp/>. This link also provides additional information regarding contaminated sites in the state:

http://www.ecy.wa.gov/programs/tcp/sites_brochure/Sitelists.htm

Other Land Programs

Underground Storage Tank (LUST) Program

<http://www.ecy.wa.gov/programs/tcp/ust-lust/tanks.html>

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