

Connecticut Abandoned Brownfield Cleanup (ABC) Program

November 2, 2009

Reference: P.A. 09-235 Section 7

Effective Date: October 1, 2009

Program Summary

1. Program eligibility determined by DECD Commissioner in consultation with the DEP Commissioner.
2. **Eligibility Criteria**
 - a. The property is a brownfield, as defined in section 32-9kk of the general statutes and such property has been unused or significantly underused since October 1, 1999;
 - b. The applicant intends to acquire title to such property for the purpose of redeveloping such property;
 - c. The redevelopment of such property has a regional or municipal economic development benefit;
 - d. The applicant is not affiliated or related with any of the past owners or operators of the property, and is not liable for the pollution under section 22a-432 of the general statutes;
 - e. The applicant is not required by law, order or consent order to remediate property;
 - f. The potentially responsible party for the pollution is indeterminable, is no longer in existence or is otherwise unable to perform necessary remediation of such property; and
 - g. Other eligible criteria as determined by the DECD Commissioner.
3. **Requirements of the applicant/eligible property upon designation by the DECD Commissioner**
 - a. enter and remain in the voluntary remediation program established in section 22a-133x of the general statutes; the applicant will not be a certifying party for the property pursuant to section 22a-134 of the general statutes
 - b. The applicant will investigate pollution on such property and remediate pollution on the property in accordance with regulations established for remediation adopted by the DEP and in accordance with approved project schedules; and
 - c. Eliminate further migration of any pollution from such property.
4. **DECD Responsibilities**
 - a. Develop application forms for the program.
 - b. Not later than **sixty days after receipt** of the application, the DECD Commissioner shall determine if the application is complete and shall notify the applicant of such determination.
 - c. Not later than **ninety days after determining that the application is complete**, the DECD Commissioner shall determine whether to include the property and applicant in the abandoned brownfields cleanup program.
5. Administrative Notes
 - a. Designation of a property in the abandoned brownfields cleanup program by the Commissioner of Economic and Community Development shall not limit the applicant's ability to seek state brownfield program funds.
 - b. An eligible person who holds title to an eligible property designated to be in the abandoned brownfields cleanup program shall not be responsible for investigating or remediating any pollution or source of pollution that has emanated from such property prior to such person taking title to such property.
6. Next Steps
 - a. Modify SCPRIF Forms for the ABC Program
 - b. Run Pilot of Program to test

Attachment 1: Full Text of P.A. 09-235, Section 7 abandoned brownfield cleanup program

Sec. 7. (NEW) (*Effective October 1, 2009*) (a) There is established an abandoned brownfield cleanup program. The Commissioner of Economic and Community Development shall determine, in consultation with the Commissioner of Environmental Protection, properties and persons eligible for said program. For a person and a property to be eligible, the Commissioner of Economic and Community Development shall determine if (1) the property is a brownfield, as defined in section 32-9kk of the general statutes and such property has been unused or significantly underused since October 1, 1999; (2) such person intends to acquire title to such property for the purpose of redeveloping such property; (3) the redevelopment of such property has a regional or municipal economic development benefit; (4) such person did not establish or create a facility or condition at or on such property that can reasonably be expected to create a source of pollution to the waters of the state for the purposes of section 22a-432 of the general statutes and is not affiliated with any person responsible for such pollution or source of pollution through any direct or indirect familial relationship or any contractual, corporate or financial relationship other than a relationship by which such owner's interest in such property is to be conveyed or financed; (5) such person is not otherwise required by law, an order or consent order issued by the Commissioner of Environmental Protection or a stipulated judgment to remediate pollution on or emanating from such property; (6) the person responsible for pollution on or emanating from the property is indeterminable, is no longer in existence or is otherwise unable to perform necessary remediation of such property; and (7) the property and the person meet any other criteria said commissioner deems necessary.

(b) Upon designation by the Commissioner of Economic and Community Development of an eligible person who holds title to such property, such eligible person shall (1) enter and remain in the voluntary remediation program established in section 22a-133x of the general statutes, as amended by this act, provided such person will not be a certifying party for the property pursuant to section 22a-134 of the general statutes, as amended by this act, when acquiring such property; (2) investigate pollution on such property in accordance with prevailing standards and guidelines and remediate pollution on such property in accordance with regulations established for remediation adopted by the Commissioner of Environmental Protection and in accordance with applicable schedules; and (3) eliminate further emanation or migration of any pollution from such property. An eligible person who holds title to an eligible property designated to be in the abandoned brownfields cleanup program shall not be responsible for investigating or remediating any pollution or source of pollution that has emanated from such property prior to such person taking title to such property.

(c) Any applicant seeking a designation of eligibility for a person or a property under the abandoned brownfields cleanup program shall apply to the Commissioner of Economic and Community Development at such times and on such forms as the commissioner may prescribe.

(d) Not later than sixty days after receipt of the application, the Commissioner of Economic and Community Development shall determine if the application is complete and shall notify the applicant of such determination.

(e) Not later than ninety days after determining that the application is complete, the Commissioner of Economic and Community Development shall determine whether to include the property and applicant in the abandoned brownfields cleanup program.

(f) Designation of a property in the abandoned brownfields cleanup program by the Commissioner of Economic and Community Development shall not limit the applicant's or any other person's ability to seek funding for such property under any other brownfield grant or loan program administered by the Department of Economic and Community Development, the Connecticut Development Authority or the Department of Environmental Protection.