

Brownfields 101

Federal, State, and Local Programs
June 2024

Allison Amram, EPC, Presenter
Belinda Richard, Terracon, Presenter

Michael Larson, Ackerman, Moderator



ackerman



What is a Brownfield

A brownfields site is a property where **actual or perceived environmental contamination** complicates its expansion or redevelopment. Cleanup costs and risks deter potential developers and create a barrier to community revitalization and economic development.



Brownfield Properties



A brownfield site is a property whose full use is hindered by fears of environmental contamination.



History of the Brownfields Program

- Began in 1995, pilot projects
- “Designed to empower states, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields.”
- Prior to Brownfields...CERCLA
 - Comprehensive Environmental Response Compensation, and Liability Act (Superfund)



CERCLA Regulations

- 1980 CERCLA – when 1st enacted - property owners were held strictly liable for prior contamination
 - **Strict liability:** without fault or culpability
 - **Joint and Several liability:** current and past owners can be held accountable individually or collectively
- Any owner within a property's chain of title could be held liable for contamination at a property, regardless of whether any particular owner caused the contamination



Brownfields Regulations

- Brownfields Revitalization and Environmental Restoration Act of 2001
 - Amended CERCLA
 - Established a definition of Brownfield site
 - Liability protection to a NRP if certain requirements are met
 - Assistance to State Response Programs
 - Established the BF Revolving Loan Fund



Brownfields Regulations

- 2002 Small Business Liability Relief and Brownfields Revitalization Act (aka “The Brownfields Amendment”)
 - Codified many of EPA’s practices, policies and guidance
 - Established EPA’s Brownfields grant program
 - **Established applicability of AAI**
 - Amended CERCLA and provided liability protections for certain property owners
 - Innocent landowners
 - Contiguous property owners
 - Bona Fide Prospective Purchasers (BFPP)



Brownfields Regulations

- 2018 Brownfields Utilization Investment and Local Development (BUILD) Act
 - Reauthorized EPA's Brownfield Program
 - Funding Authorization Increase for Brownfield Grants
 - 501c3 Non-profits, LLC and LLP with managing partners as 501c3 are able to apply for funding
 - Expanded Liability Protection



Brownfields Regulations

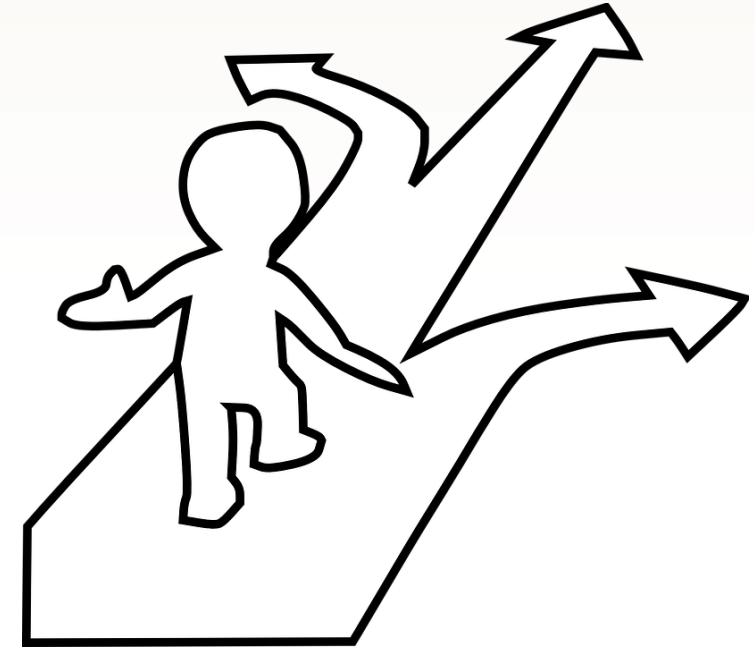
- 2021 Bipartisan Infrastructure Law
 - Investment in drinking water and wastewater infrastructure
- 2022 Inflation Reduction Act (IRA)
 - Added new and existing federal programs
 - Additional \$1.5B for EPA Brownfields for four years
 - Resulted in larger and more grants awarded during performance period



Brownfields Program

Funding and Incentives

- Federal Program (EPA)
 - Grant Funding (Assessment, Revolving Loan Fund, Cleanup, Multipurpose grants)
 - Others (Job Training)
- State Program (Programs vary by states)
 - Financial Incentives – Tax Credits
 - Target Brownfield Funding, from EPA through State
 - Regulatory Benefits/Liability Protections
 - Technical Assistance
 - Often leveraged with federally funded projects



Federal EPA Brownfield Program

- Common types of grants
 - Assessment
 - Community Wide
 - Site-Specific
 - Coalition
 - Cleanup
 - Multi-purpose (not this cycle)
 - Revolving Loan Fund
 - Job Training
- Annual Cycle/Timing



Federal Brownfields Program

- Federal brownfield funds can be used in support of property transactions and redevelopment and can be layered with state brownfields & other incentives
- Federal brownfield assessment grants (most common new programs) fund
 - Outreach and engagement activities to support local projects
 - Property inventories, and required reporting
 - Due diligence: environmental site assessments (Phase I and II ESA)
 - Reuse planning on properties based on results of assessments
 - Remediation planning
 - Lead to cleanup grants



What is Florida's Brownfield Program?

An incentive-based program for the redevelopment and voluntary cleanup of potentially contaminated properties to reduce public health and environmental hazards.

- Initiated by EPA 1995
- Started in Florida 1997
- Florida Brownfield Redevelopment Act, Florida Statute 376.77 – 376.85



Requirements & Incentives

Two Requirements:

- Property is contaminated, or has the perception of contamination
- Owner did not cause contamination

Incentives:

- Financial incentives and liability protection
- Site Rehabilitation Completion Order (SRCO) goal for contaminated sites



Brownfield Area Designation – (Redevelopment)

Brownfield Area: An area designated by local government resolution that meets the criteria in FS 376. Criteria differs based on who requests the designation. **For private entities:**

1. Owner agrees to voluntary environmental cleanup, if needed.
2. Redevelopment will create 5 new jobs
3. Redevelopment fits into local gov't plan
4. Notice of redevelopment is provided to neighbors
5. Owner has sufficient financial resources for project



Private Brownfield sites



Brownfield Area Designation (Redevelopment)

For **government designations**, there are 4 criteria:

1. The area needs redevelopment
2. The project is focused (not too vague or too large)
3. The project has potential to attract private partners
4. The area can be used for recreation, cultural or historical preservation



Local Government Example - City of Tampa



Establishing a Brownfield Site (Environmental Cleanup)

1. Brownfield Area is Designated
2. Site evaluation found contamination
3. Execute a **BSRA** with FDEP or delegated county program

A **Brownfield Site Rehabilitation Agreement (BSRA)** is a voluntary cleanup agreement for the PRFBSR to cleanup any contamination that originates onsite.

****Important date for Brownfield incentives: December 31st each year**



Brownfield Site –Voluntary Cleanup process

- **Chapter 62-780 –Contaminated Site Cleanup Criteria**
Florida's Rule for Assessment, Remediation and Closure of Contaminated Sites. All Florida Brownfield Sites are required to follow this Rule.
- **Chapter 62-777 –Contaminant Cleanup Target Levels**
Florida Rule that lists Target Levels for cleanup of contaminated soils, surface waters and groundwater.



Site Rehabilitation under Chapter 62-780

- Assess soil and groundwater contamination that originates onsite. Offsite assessment is required if contamination has moved off the site property.
- Cleanup/Remediate soils and groundwater
- Monitor to evaluate for closure conditions
- Achieve SRCO – Site Rehabilitation Completion Order



62-780 Closure Options

Clean closure (RMO1)– no remaining environmental contaminants, or

Conditional Closure (RMO2 or RMO3)– remaining environmental contaminants are controlled to prevent human or environmental exposure. Controls left in place and recorded. Controls may include:

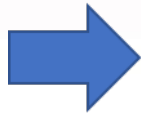
- Engineering Controls
- Restrict land use options
- Prohibit/limit groundwater uses
- Deed Restrictions, or other Institutional Controls – always check FDEP's ICPG webpage!



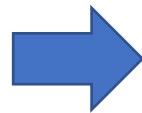
So... What are the incentives?



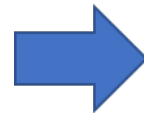
Liability protection - Florida Statute 376.82



VCTC – Voluntary Cleanup Tax Credits



Building materials sales tax refund



Job Creation Bonus tax refund



FDEP Incentives

Liability Protection – from claims relating to site contamination, provided upon signing the BSRA (FS 376.82)

VCTC – Voluntary Cleanup Tax Credit – for 25-50% of allowable site rehabilitation costs up to a maximum amount.

- Issued as tax credit for Florida Corporate Income Tax
- Can resell tax credits



VCTC Credit types

Tax Credit Type	Application Frequency	% Allowed / Maximum Credit for Costs Incurred and Paid after 12/31/07	
Site Rehabilitation	Annually	50%	\$500,000
No Further Action Bonus (i.e., SRCO)	Once	25%	\$500,000
Affordable Housing Bonus	Once	25%	\$500,000
Health Care Facility Bonus	Once	25%	\$500,000
Solid Waste	Once	50%	\$500,000



SRP Grant/Florida's Targeted Brownfields Assessment Grant

- Administered by FDEP (Tallahassee) and funded by EPA
- Independent of Florida's Brownfield Program, but must meet legal definition of a Brownfield
- Grants available to local gov'ts, nonprofits, CRAs, RPCs, WMDs, housing authorities and *possibly* private landowners
- Grants up to \$200,000 for assessment, tank/source removal and remediation (may increase to \$250,000)
- Applications on a revolving basis for Oct 2024 start
- FDEP contractors perform the work, and FDEP pays the contractor directly (Waste Cleanup Contract)



Community Benefits of the Brownfields Program

- **Economic Impact & Financial boost**
 - Property values & Job creation
- **Community development**
 - Historical significance
 - Recreation
 - Services
 - Catalyst for renewal
- **Infill benefits**
 - Reuse of existing infrastructure
 - Preserve open lands



Delegated Programs by FDEP

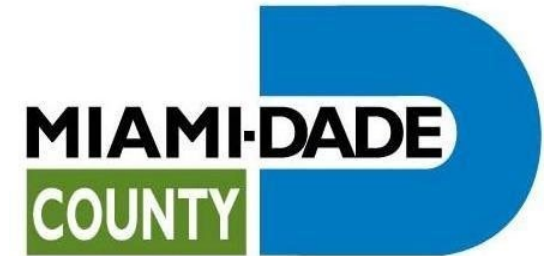
**Hillsborough County
Environmental Protection Commission**



**Broward County
Environmental Permitting Division**



**Miami-Dade County
Division of Environmental Resources Management**



EPC Brownfields Program

**Manage contaminated site
cleanup:**

- BSRA → SRCO
- 49 EPC Brownfield sites
- 23 closed – 3 in 2023
- 26 active sites

**Assist with other Brownfield
activities:**

- Support Hillsborough County grantees
- Promote Brownfields



Hillsborough Community Benefits of the Brownfields Program



BayCare Hospital – Plant City



Property Value Changes



Madison Street Park
+\$1,936,400



Hudson Nursery
properties
+\$7,510,340



Tampa Jai Alai
+ \$71,108,200



Foundry Lakeside
+\$38,267,700

Liberty Tampa
+\$24,884,200



Cleanup Tips, Process

- Site Rehabilitation work can begin before the BSRA is signed. Plan time for the BA and sign the BSRA by Dec 31st!
- Brownfields cleanup is designed to proceed with the redevelopment of the site— balance each process.
- Site can be fully redeveloped and functioning while the environmental investigation winds down.



Contacts

EPA: [Brownfields | US EPA](#)

FDEP: [Brownfields Program | Florida Department of Environmental Protection](#)

EPC of Hillsborough County: [Brownfields | EPC of Hillsborough County, FL \(epchc.org\)](#)

Broward County: [Brownfields Brownfields \(broward.org\)](#)

Miami-Dade DERM: [Brownfields - Miami-Dade County \(miamidade.gov\)](#)



Thank you!

Belinda Richard
Terracon
Brownfields Program National Manager
727.430.0868
Belinda.Richard@Terracon.com

Allison Amram, PG
EPC of Hillsborough County
Brownfields Coordinator, EPC
813.627.2600 ext. 1294
amrama@echc.org

