



New York State Department of

**ENVIRONMENTAL CONSERVATION**

[www.dec.ny.gov](http://www.dec.ny.gov)

## **BROWNFIELDS REFORM**

### **Budget Bill Part E**

The Brownfield Cleanup Program (BCP) was established in 2003 to provide incentives for the clean-up of brownfield sites. Since that time, a number of unintended consequences and issues have been identified. This proposal is designed to correct a number of problems in the way the tax credits are awarded under the BCP, in order to:

- Promote more and better cleanups
- Reward sound development
- Foster urban revitalization
- Target limited state resources more effectively

### **More Sites Eligible**

All contaminated sites will be accepted into the BCP, and the applicant will get a release from liability for cleaning up to applicable state standards. A separate eligibility determination will be made for incentives; tax credits will be only available to sites that are unlikely to be redeveloped without financial assistance from the state. An applicant who is responsible for the contamination on a site will be allowed to enter the program and receive a liability release, but will not be eligible for tax credits.

### **Many More Sites Cleaned Up**

The bill provides more generous tax credit rates—more than double the current rates—for most brownfield redevelopment. The BCP will also be expanded to allow for participation by currently excluded sites that do not need tax credits but do need the liability relief that the program offers.

### **More Generous Tax Credit Rates**

Under the current program, tax credits range from 10% to 22% based on the type of taxpayer, location of the site and level of the cleanup. Once the applicable percentage is determined, the percentage applies to cleanup, groundwater remediation and development costs. Under the proposed program, the percentages are substantially higher, based on a clear schedule. They will apply to any tax-credit eligible site entering the program on or after July 1, 2007.

### ***Remediation Credits to encourage better cleanups include:***

- Up to 75% of cleanup costs:
  - 25% to 75% awarded on a graduated schedule based on the level of cleanup achieved; and
  - A 10% bonus credit for best cleanup feasible under the circumstances, so long as the total remediation credit does not exceed 75%. This will be especially valuable to developers of downstate “fill” sites and upstate industrial sites with ubiquitous contamination.

### ***Groundwater Cleanup Credits include:***

- Up to 75% of groundwater remediation costs:
  - 50% of all groundwater remediation costs, and
  - A 10% bonus credit for the best groundwater remediation feasible under the | circumstances, or
  - A 25% bonus credit for remediation that allows for unrestricted groundwater use.

### ***Tangible Property (Development) Credits include:***

- Up to 50% of building costs to encourage thoughtful development and urban revitalization:
  - 15% base credit for all eligible sites;
  - A 10% bonus credit for sites within an Environmental Zone (high poverty and unemployment rates),
  - A 5% bonus credit for sites within a federally delineated “qualified census tract” (low income or high poverty rate), and
  - A 10% bonus credit for conformance with a Brownfield Opportunity Area (BOA), Comprehensive Plan, or a local waterfront revitalization plan issued within the last ten years, and
  - A bonus credit of up to 10% for specified smart growth attributes (green building, use of existing infrastructure, use or generation of renewable energy, location near public transit).
  - These credits are subject to a \$15M cap on any given project to ensure that a small number of very expensive projects do not exhaust the state’s capacity to provide assistance.

### **More Fiscal Accountability**

Under the current program there is no way to predict what the cost of the program will be even as projects are reviewed and cleanups are approved. Based on estimates, it is expected that the first 25 sites that have gone through the program will cost the state \$1B in tax credits. Just four of these sites will earn the developers half of this, assuring that the program will ultimately cost many times more than the originally estimated \$135M per year. The proposed program changes are designed to provide greater accountability to help assure that state funding is being expended prudently and predictably:

The proposed \$15M cap will allow a richer incentive program for small and moderate sized sites, while still allowing significant rewards for larger projects.

- DEC will identify multiple sites associated with one reuse or redevelopment project to assure that the cap will apply to the entirety of a single project.
- Applicants will be required to report costs and cost estimates as a project moves through the process to allow the state to assess future budget implications.
- Information about the tax credits awarded for individual projects will be publicly available.
- Following remediation, a property will only be allowed to be transferred once for tax credit purposes.