

# EPA Region 9

# American Samoa

## Brownfields Response Program

American Samoa Environmental Protection Agency (AS-EPA)  
P.O. Box PPA  
Utulei Office Building  
Pago Pago, American Samoa 96799  
<http://asepa.gov>

### Program Overview

- CERCLA 128(a) State Response Program
- Brownfields Program
- Pacific Island Brownfields Response Team

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684-633-2304

## 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://asepa.gov/site-assessment-remediation.asp>

- **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

## Financial Elements

### FINANCIAL ELEMENTS

At this time all program funding is provided 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. The Cooperative Agreement and Joint Execution Plans are currently under development.

## 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.

## Program Highlights

In early 2008, AS-EPA responded to petroleum releases from an underground electrical vault near the Satala Powerplant of the American Samoa Power Authority (ASPA). ASPA conducted an environmental investigation in late 2008 that linked subsurface petroleum contamination to historical industrial activities in the area. In 2009, the facility was severely damaged in a tsunami and currently operates on stand-by generators. ASPA and AS-EPA are working closely with EPA to conduct a preliminary assessment and facilitate efforts to stabilize and redevelop the site for permanent power generation facilities.

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## Other Land Programs

### Hazardous Materials

<http://asepa.gov/hazardous-materials.asp>



*AS EPA Staff Conducting Assessment Activities*

## Voluntary Remediation Program / Brownfields Assistance Program

Arizona Department of Environmental Quality (ADEQ)  
Waste Programs Division  
1110 W. Washington Street  
Phoenix, AZ 85007  
<http://www.azdeq.gov/environ/waste/index.html>

**Contact(s):** Tom Di Domizio, *Voluntary Remediation Program (VRP) Manager*  
[didomizio.thomas@azdeq.gov](mailto:didomizio.thomas@azdeq.gov)  
602-771-4229

Juli Boles, *Brownfields Program Manager*  
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602-771-4170

### Program Overview

- Brownfields Program
- Cost to Enter the Program: \$2,000 application fee plus additional fees
- Liability Relief Provisions
- Brownfields Redevelopment Toolbox

## 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. ADEQ reviews these voluntary remedial actions and provides a closure document for successful site remediation that is accepted by all relevant ADEQ programs.

<http://www.adeq.state.az.us/environ/waste/cleanup/brownfields.html>

- **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 the department.
- **Sites Enrolled in VCP:** As of November 2010, 92 sites were in the program.
- **Sites Completed under VCP:** As of November 2010, 152 sites completed cleanups through the program.

## 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.

### 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. Although this statute also refers to providing immunity from contribution claims, which can only be provided through a court decree, ADEQ lacks the independent authority to prevent other parties from pursuing claims.

## 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://www.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 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 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; 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, institutional controls, review and reevaluation, and declaration of environmental use restriction (DEUR) that run with the land.

- **IC Tracking:** The program maintains a database that tracks institutional controls (IC) 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>

## Program Highlights

Due to unprecedented growth, the City of Show Low developed a plan to expand city facilities and infrastructure. Included in the plan was the construction of a new library. ADEQ used Section 128(a) Response Program funding to conduct Phase I and Phase II environmental site assessments (ESA) at the new library location. The results of the Phase II ESA revealed petroleum-related contamination on property. After the removal of contaminated soil, construction began in 2009 and the new library opened in August 2010. The 20,000-square foot library offers a 50% increase in capacity with a second phase designed to accommodate future expansion. A 150-foot clerestory window brings daylight deep into the main hall while other sustainable features include the use of low-VOC and recycled-content finishes, high-efficiency plumbing and mechanical equipment, and regional materials, such as Arizona stone.



*The New City of Show Low Public Library*

## Other Land Programs

### Underground Storage Tanks (UST) Program

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

### Superfund Program

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

### Hazardous Waste Program

<http://www.azdeq.gov/environ/waste/hazwaste/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>

**Contact(s):** Barbara Cook, P.E.  
[bcook@dtsc.ca.gov](mailto:bcook@dtsc.ca.gov)  
510-540-3825

### Program Overview

- Brownfields Program
- Cost to Enter the Program: Cost recovery
- Liability Relief Provisions
- Financial Assurance and Insurance for Redevelopment Program (FAIR)
- Registered Environmental Assessor Program

## 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> and <http://www.calepa.ca.gov/Brownfields>

- **Funding Source(s) for the Program:** State Accounts and reimbursements (80%), federal grants (20%)
- **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.
- **Sites Enrolled in VCP:** As of November 2010, 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 November 2010, DTSC staff issued either certifications or no further action decisions on over 425 voluntary cleanup sites.

## 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.dtsc.ca.gov/SiteCleanup/Brownfields/Loans_Grants.cfm) and [http://www.waterboards.ca.gov/water\\_issues/programs/ustcf](http://www.waterboards.ca.gov/water_issues/programs/ustcf)

### 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/index.cfm#CP\\_JUMP\\_13327](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP_JUMP_13327)
- Prospective Purchaser Agreements and Liability Relief  
[http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP\\_JUMP\\_13318](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP_JUMP_13318)
- Redevelopment Agency Oversight Agreement (Polanco Act)  
[http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP\\_JUMP\\_13297](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP_JUMP_13297)
- Site Designation Committee  
[http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP\\_JUMP\\_13297](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP_JUMP_13297)

### REGISTERED ENVIRONMENTAL ASSESSOR PROGRAM

DTSC certifies Registered Environmental Assessors to be qualified to conduct various environmental assessment and small site cleanup activities. <http://www.dtsc.ca.gov/REA/index.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 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 institutional controls (IC), monitors and enforces cleanups, and completes audits. Institutional controls 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 Board maintain a list of deed-restricted properties that is available on the Internet.

[http://www.envirostor.dtsc.ca.gov/public/deed\\_restrictions.asp](http://www.envirostor.dtsc.ca.gov/public/deed_restrictions.asp)

[http://www.waterboards.ca.gov/water\\_issues/programs/deed\\_restrict](http://www.waterboards.ca.gov/water_issues/programs/deed_restrict)

- **IC Tracking:** Institutional controls 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.

## Program Highlights

DTSC loaned \$1.6 million in American Recovery and Reinvestment Act (ARRA) funds to the Martin Building Company to accelerate cleanup at a former scrap iron and metal yard located in the Central Waterfront District of San Francisco to construct residential development. The company used ARRA funds to remove lead-contaminated soil and properly dispose of it at a permitted landfill. It leveraged the funds to obtain financing to construct the project. The residential development will consist of over 180 new rental housing units (39 designated as below market rate), space for restaurants and retail businesses, easy access to public transportation, underground parking, onsite subsidized day care and several "pocket plazas." The development will be built according to LEED gold certification criteria and has created about 200 construction jobs.



Artist Rendering of New LEED Residential Development in of San Francisco

## Other Land Programs

### Voluntary Cleanup Program

[http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP\\_JUMP\\_13298](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP_JUMP_13298)

### Expedited Remedial Action Program

[http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP\\_JUMP\\_13299](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP_JUMP_13299)

### Private Site Management Program

[http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP\\_JUMP\\_13335](http://www.dtsc.ca.gov/SiteCleanup/Brownfields/index.cfm#CP_JUMP_13335)

### Underground Storage Tanks (UST) Program

[http://www.waterboards.ca.gov/water\\_issues/programs/ust](http://www.waterboards.ca.gov/water_issues/programs/ust)

# Commonwealth of the Northern Mariana Islands

## Brownfields Program

Commonwealth of the Northern Mariana Islands (CNMI)  
Division of Environmental Quality (DEQ)  
Site Assessment and Remediation Branch  
P.O. Box 501304  
Saipan, MP 96950  
<http://www.deq.gov.mp>

### Program Overview

- Brownfields Program
- Site Assessment Request Form
- Pacific Islands Brownfields Response Team

**Contact(s):** Ray Masga, *Brownfields Coordinator*  
[raymasga@deq.gov.mp](mailto:raymasga@deq.gov.mp)  
670-664-8500

## 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. This branch is responsible for the assessments and cleanup of site contamination, as a result of the release of hazardous substances, 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 US Army Corps of Engineers with Formerly Used Defense Site activities.

<http://www.deq.gov.mp/section.aspx?seclD=8>

- **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

## Financial Elements

### ASSESSMENT AND CLEANUP FUNDING

- CNMI DEQ is using Section 128(a) Response Program grant funds to develop and enhance its State Response Program by establishing program guidance documents, policies and regulations. Section 128a 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 release.
- EPA Brownfields Hazardous Substance Assessment Grant (\$200,000) and EPA Brownfields Petroleum Assessments grant (\$200,000). Both funding sources are used for conducting Phase I and Phase II Environmental Site Assessments (ESA).

### PACIFIC ISLANDS BROWNFIELDS RESPONSE TEAM

The Pacific Islands Brownfields Response Team (PIBRT) was created to establish regional support for the development and enhancement of Response Programs under Section 128(a) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). The PIBRT represents collaboration between American Samoa EPA, Guam EPA, CNMI DEQ, and the Hawaii Department of Health. Team members seek to enhance their respective Response Programs through cooperation, coordination and leveraging of resources. PIBRT also hopes to bring greater recognition and attention to the unique challenges and accomplishments of Response Programs the Pacific Islands.

## Program Elements

### **METHODS/STANDARDS/CONTROLS**

CNMI DEQ prepared a Environmental Screening Levels (ESLs) document in 2005 (updated March 2009). 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.aspx?secID=8&artID=133>

### **CONTAMINANTS COVERED**

Hazardous substance (including explosives constituents) and petroleum products.

### **INSTITUTIONAL CONTROLS (IC)**

Institutional controls 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.aspx?secID=8&artID=96>

## Program Highlights

The CNMI DEQ used Section 128(a) Response Program funding to create a Site Assessment Request Form for the public to request environmental site assessments on potential brownfields properties. The site assessment request forms are used as a preliminary screening tool to determine site eligibility for the use of Section 128(a) Brownfields funding to conduct ASTM E 1527-05 Phase I and Phase II ESAs. Upon completion and submission of the forms, properties are reviewed by the CNMI DEQ Response Program staff for preliminary eligibility. The applicant is then contacted by DEQ staff upon completion of the review. The use of the forms has increased public awareness regarding brownfields issues, enabled DEQ staff to inventory and review potential brownfields properties, and streamlined the brownfields assessment process.

<http://www.deq.gov.mp/article.aspx?secID=8&artID=179>

In FY 2010, CNMI DEQ developed its mission, vision, and structure of its State Response Program (SRP). The agency continues to work further towards developing and enhancing its SRP. In FY 11, CNMI DEQ will complete the development of its Voluntary Response Program (VRP) guidance document and its VRP regulations.



*Public Meeting with Land Owners to Educate Them about the Assessment Program*

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## Other Land Programs

### **Pesticides and Storage Tanks Program**

<http://www.deq.gov.mp/section.aspx?secID=7>

### **Toxic Waste Management Program**

<http://www.deq.gov.mp/section.aspx?secID=11>

## Guam Environmental Assessment & Remediation (GEAR) Program

Guam Environmental Protection Agency (Guam EPA)  
P.O. Box 22439 GMF  
Barrigada, GU 96913  
<http://epa.guam.gov>

### Program Overview

- Brownfields Program

**Contact(s):** Roland Gutierrez, *Program Manager*  
[Roland.Gutierrez@epa.guam.gov](mailto:Roland.Gutierrez@epa.guam.gov)  
671-475-1658/9

### Program

Guam EPA's Brownfield Program 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 our goal to identify and evaluate the risks posed by these properties and find solutions so that reuse and redevelopment is possible. We intend to accomplish these goals through public education, outreach and local partnerships with private and government agencies.

- **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

### Financial Elements

- Section 128(a) Response Program Grant - \$352,000 for Brownfields Site Assessment and Cleanup (2009)
- \$430,000 for Brownfields Site Assessment and Cleanup (2010)
- Section 104(k) Grant - \$200,000 for Hazardous Substance Site Assessment and \$200,000 for Petroleum Site Assessments (2006 – 2011)

#### ASSESSMENT AND CLEANUP FUNDING

- Guam EPA is using Section 128(a) Response Program funds to conduct site assessment and cleanup activities.
- EPA Brownfields Hazardous Substance Assessment Grant (\$200,000) and EPA Brownfields Petroleum Assessments Grant (\$200,000).

### Program Elements

Under Section 128(a) State and Tribal Response Program funding, Guam EPA is in the process of establishing program guidelines, legal authorities, and public awareness necessary to address contaminated properties.

#### CONTAMINANTS COVERED

The program covers hazardous substances, petroleum, lead-based paint, and asbestos.

## Program Highlights

Guam EPA's first redevelopment of a previous contaminated brownfields site into a multi-recreational sports complex has come to its final construction stage after the successful removal of approximately 8,998 tires, the placement of 1,180 linear feet of rubber bumpers, and conducting a series of environmental assessments. Based on the analyses of soil sampled during Phase II assessment, any possible petroleum and hazardous substances from the disposal and reclamation of white goods and automobile batteries have been identified and removed accordingly and replaced with clean soil. The grand opening for the water park was held on December 1, 2010 and the rest of the multi-recreational facilities are in their final stage of construction. The success story was shared at the National Brownfields Conference in 2011.

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## Other Land Programs

### Underground Storage Tank (UST) Program

[http://guamepa.net/Guam\\_Underground\\_Storage\\_Tank\\_Regulations\\_\(Draft\\_Final\\_v.\\_02DEC10\)\[1\].pdf](http://guamepa.net/Guam_Underground_Storage_Tank_Regulations_(Draft_Final_v._02DEC10)[1].pdf)



*New Water Park Redeveloped on Former Brownfields Property*

## State Cleanup Program

Hazard Evaluation and Emergency Response (HEER) Office  
Hawaii Department of Health (DOH)  
919 Ala Moana Boulevard, Room 206  
Honolulu, HI 96814  
<http://hawaii.gov/health/environmental/hazard/vrp.html>

**Contact(s):** Fenix Grange  
[fenix.grange@doh.hawaii.gov](mailto:fenix.grange@doh.hawaii.gov)  
808-586-4249

### Program Overview

- Fast Track Cleanups
  - Cost: Oversight fees
- Voluntary Response Program
  - Cost: \$1,000 plus oversight fees
  - Liability Relief Provisions

## Brownfields Cleanup and Redevelopment

Office of Planning  
Department of Business Economic Development and Tourism  
P.O. Box 2359  
Honolulu, HI 96804-2359  
<http://www.hawaii.gov/dbedt/gis/brownfields>

**Contact(s):** Ruby Edwards  
[redwards@dbedt.hawaii.gov](mailto:redwards@dbedt.hawaii.gov)  
808-587-2817

Mary Alice Evans  
[maevans@dbedt.hawaii.gov](mailto:maevans@dbedt.hawaii.gov)  
808-587-2802

## Program

The State of Hawaii State Cleanup Program 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.

<http://hawaii.gov/health/environmental/hazard/vrp.html>

Fast Track Cleanups (FTC) offer landowners or other private parties the alternative to conduct an expedited voluntary investigation or cleanup under a simple agreement with the Hazard Evaluation and Emergency Response (HEER). 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. The focus of FTC is to streamline and expedite the assessment, cleanup, and closure process at low and medium priority sites.

- **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 November 2010, 28 sites were enrolled in the program.
- **Sites Completed under VRP:** As of November 2010, 12 sites were completed cleanup through the program.
- **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:** As of November 2010, 348 low and medium priority sites were enrolled.
- **Sites Completed under State Program:** During FY 2010, 24 low and medium priority sites completed cleanup.

## 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. Additional protections against future liability for contaminants remediated under a VRP agreement are available under HRS 128E, the Voluntary Response Program. 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 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 cleanup for carcinogens be to a cancer risk level of 10<sup>-6</sup>.  
<http://hawaii.gov/health/environmental/hazard/statutes.html> and <http://hawaii.gov/health/environmental/hazard/eal2005.html>

### CONTAMINANTS COVERED

Over 150 common contaminants are covered, including petroleum compounds, solvents, metals, pesticides, dioxins, Polychlorinated Biphenyls (PCBs), PAHs, etc. Asbestos and lead-based paint are evaluated separately.

### INSTITUTIONAL CONTROLS (IC)

Institutional controls (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. Hawaii does not monitor 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://hawaii.gov/health/environmental/hazard/records.html>

## Program Highlights

In an effort to promote cleanup and reuse of contaminated properties, the Hawaii State Legislature, working with the DOH HEER Office and brownfields stakeholders, enacted changes to the Hawaii Revised Statutes Chapter 128D, also known as the State of Hawaii Environmental Response Law. The changes set forth conditions under which innocent contiguous property owners and "bona fide prospective purchasers" are not held liable for damages or costs related to contamination of real property not owned or operated by the property owner or purchaser. HEER drafted a bill after receiving input about inconsistencies between state and federal environmental laws from brownfields stakeholders. At the 2007 and 2008 Brownfields Forums, uncertainty about potential state enforcement actions under 128D was identified as a significant roadblock to investment in the redevelopment of contaminated properties. The Forums and other HEER activities related to drafting of the bill were funded through its Section 128(a) Response Program grant. The bill was signed into law and became effective in 2009. The law provides opportunity for voluntary environmental cleanup, encourages urban redevelopment, brings private cleanup funds to vacant or unused contaminated properties, and does not restrict the ability of DOH to pursue polluters or previous owners or operators of the property.

## Other Land Programs

### Underground Storage Tank (UST) Program

<http://hawaii.gov/health/environmental/waste/ust/index.html>

## 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>

**Contact(s):** Jeff Collins, *Brownfields Supervisor*  
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### Program Overview

- Brownfields Program
- Cost to Enter the Program: Cost based on type/size of property
- Liability Relief Provisions

## Program

Nevada's 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/brownfld.htm>

- **Funding Source(s) for the Program:** Federal grants
- **Cost to enter 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).
- **Sites Enrolled in VCP:** As of November 2010, one site was enrolled in the program.
- **Sites Completed under VCP:** As of November 2010, one site had completed cleanup through the program.

## Financial Elements

### ASSESSMENT AND CLEANUP FUNDING

- NDEP is using Section 128(a) State and Tribal Response Program grant funds to conduct site assessment and cleanup activities.  
[http://ndep.nv.gov/bca/brownfield\\_state-grant.htm](http://ndep.nv.gov/bca/brownfield_state-grant.htm)
- Nevada also operates a \$2,000,000 Revolving Loan Fund targeted for cleanups conducted by private land owners and developers.  
[http://ndep.nv.gov/bca/brownfld\\_loans.htm](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 which 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 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 Plan (QAPP) that is approved by EPA Region 9 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 QAPP.

[http://ndep.nv.gov/bca/brownfield\\_qa\\_plan07.htm](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)

Institutional controls 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/brownfld.htm>

## Program Highlights

The State of Nevada Brownfields Program attended the Nevada Association of Counties annual conference held November 17-19, 2010 in Reno. State Brownfields staff had the opportunity to meet with county officials and stakeholders to promote the Brownfields program and explain how it has helped municipalities throughout the state and how it can help their communities. New projects have been approved for Clark, Lincoln, Washoe, White Pine, and Nye Counties. A number of public and private organizations from across the state also participated in this unique event that brought municipal officials together for meetings and a chance to "catch-up" on the latest happenings. The exhibition floor was lively and engaging with numerous displays and well-informed experts ready to educate participants about their services.



*Nevada Brownfields Program Outreach Material at the Nevada Association of Counties Annual Conference*

## Other Land Programs

### Petroleum Program

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

### Superfund Program

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