



# BCP Pre-Application Process

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# What is Brownfield?

## ◆ Statutory Definition:

- redevelopment/reuse may be complicated by
- presence or potential presence of hazardous waste, petroleum, pollutant or contaminant

## ◆ 2004 BCP Guide Definition:

- Confirmed contamination or “reasonable basis to believe contamination likely present; and
- Contamination or potential presence “may be” complicating redevelopment /reuse”




# Eligible Sites

- ◆ Hazardous Waste Sites
- ◆ Petroleum Contaminated sites
- ◆ Excluded Sites
  - Class 1 or 2
  - Permitted TSDF
  - Enforcement Action or Cleanup Order
  - 2004 Amendments allow Stipulation



# Is Site Contaminated or Basis to Believe

- ◆ Nature and Extent of contamination;
- ◆ Does contamination exceed guidance values or standards (fill vs. release?);
- ◆ Does contamination exceed historic background;
- ◆ Did prior industrial or commercial operations result in contamination;
- ◆ Has site been subject to closure, removal or prior remedial action by or under agency oversight.



## Does Presence or Potential Presence Complicate Reuse

- ◆ Is Site idled, abandoned or underused;
- ◆ Is site unattractive for redevelopment or reuse because of contamination;
- ◆ Does area have indicators of economic distress such as high vacancy rate or depressed property values;
- ◆ Is estimated cleanup costs “significant” in comparison to value of project.



## “But For” Test

- ◆ Reuse or Redevelopment would not occur “but for” tax credits
- ◆ On-site source from prior use



# Marketplace Realty

- ◆ Brownfield Sites are High-Risk Projects
- ◆ Must Attract High-Risk Capital
- ◆ The last \$\$ Are Critical
- ◆ Lenders/Investors Require State Oversight Document and NFA letters
- ◆ Ignores economic benefits from BCP projects



# Proposed Revised Definition

- ◆ Real property where
  - Contaminant is known to be present at levels exceeding applicable health-based or environmental standards, or
  - Reasonably expected to be present at such levels based on assessment of available information about property and surrounding area





# New Grounds For Rejecting Application

- ◆ Reuse or Redevelopment “would likely occur in the absence of tax credits”
  - Extent and Difficulty of Remediation
  - Anticipated Cost of On-Site Remediation
  - Anticipated Impact of Remediation on Property Value
  - Economic Circumstances of Community Where Property Located



# BCP Site Screening

- ◆ Contamination
  - Phase 2 or RI-Quality Sampling
  - Applicable Standards (SCOs)
- ◆ On-Site Source
  - Historical Investigation
  - Link to Contamination
  - Migration From Off-Site Not Enough
- ◆ Development Plans
- ◆ Timing



# Problematic Sites

- ◆ Historic Fill
- ◆ Landfills/solid waste
- ◆ “Non-Program”
- ◆ Petroleum With Active Stips
- ◆ VCP Sites
- ◆ Class 2
- ◆ RCRA Corrective Action



# Pre-Application Meeting

- ◆ Information Worksheet
  - Eligibility criteria
- ◆ Prepared to Answer Following Questions
  - Applicant
  - Relationship to Site



# Pre-Application Meeting Cont'd.

- ◆ Current Use
- ◆ Proposed Development
  - Type (e.g., Residential)
  - Footprint and Excavation
  - Volume of soil
  - Project and Remedial Costs
- ◆ Impediments to Construction
- ◆ Schedule
- ◆ Required Local Approvals
- ◆ zoning
- ◆ Community Outreach



# Pre-Application

- ◆ Sensitive Receptors
- ◆ Site History
- ◆ Outstanding Violations
- ◆ Nature of Contamination
  - Part 375 SCO's
  - Identify AOCs
- ◆ Extent of Contamination (e.g., entire site?)
- ◆ New Proposed Factors



# What Is *Acceptance* Into BCP?

- ◆ Notification of Acceptance Letter
- ◆ Executed BCA



# Getting Across Finish Line

- ◆ FER, SMP, EE
- ◆ EE
  - ALTA Survey
  - Condo Deeds Language
  - Record Before COC
- ◆ Facts Sheets
- ◆ TCO To Maximize Tax Credits