

Arkansas Brownfields program



Sustainable development for the future of Arkansas

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

BROWNFIELDS TOOLBOX

The Arkansas Brownfields Program is administered by the Arkansas Department of Environmental Quality - Hazardous Waste Division (ADEQ). The ADEQ Brownfields Program offers outreach to community officials and other stakeholders and individuals to explain the benefits of brownfields redevelopment and identify available tools for completing community brownfields projects. The ADEQ Brownfields Program provides funding and technical assistance to assess property where reuse is complicated by known or perceived hazardous substances or pollutants.

The ADEQ Brownfields Program encourages and facilitates brownfields redevelopment through several tools. These include:

- State Cleanup Subgrant
- Targeted Brownfields Assessment (TBA)
- Brownfields Revolving Loan Fund (BRLF)

Answers to 10 common questions regarding the Brownfields Program are provided below for each of these tools.

1. What are the benefits of the Arkansas Brownfields program?



In general, brownfields redevelopment benefits the community by reducing or eliminating environmental hazards, creating new business opportunities, increasing tax base and restoring blighted areas to productive use. Brownfield redevelopment may be less expensive than developing previously undeveloped land, because roads and infrastructure are already in place which discourages development of prime farmland and open spaces. Further, brownfields may be located near potential markets and labor, thus reducing the financial and social costs associated with transportation of workers and products. Specific benefits associated with the ADEQ Brownfields Program tools are described below.

Comprehensive Environmental Resource Conservation Liability Act (CERCLA)

CERCLA provides federal liability relief to prospective brownfields property owners who were never involved in any practices that might have contaminated the property. They must have conducted an “All Appropriate Inquiry” (AAI) before purchasing the property to qualify for the relief.

State Cleanup Subgrant

The U.S. Environmental Protection Agency provides funding to ADEQ for the Brownfields Program to assist with the economic development and revitalization of eligible sites. ADEQ can provide funding in the form of oversight and technical assistance to Brownfields participants and in some cases provide no cost Targeted Brownfields Assessments to eligible entities, i. e. municipalities and non-profits. The Brownfields Program is a financial assistance tool that provides up to \$200,000 per site to conduct **Targeted Brownfields Assessments (TBAs)**. These assessments can be done at no cost for the requesting municipality, government entity or non profit organization. There are two stipulations for these types of sites: there must be a clear public benefit; and the applicant can not have caused the contamination. A portion of the assessment money may be utilized for site clean up in some instances; however, the money is primarily used for assessments.

Targeted Brownfields Assessment

A Targeted Brownfields (TBA) assessment is a tool that can be utilized by any state, county, or local government entity or non-profit organization by submitting a Brownfields application. TBA applications are evaluated and prioritized by date of application, benefits to the community and funding availability. All non-profit organizations must provide proof of their non-profit status (form 501C3). The ADEQ may perform the assessment utilizing in-house staff or State contractors may be assigned to the project at no charge to the requesting party.

Letter of Intent (LOI)

The LOI is a tool which allows the applicant to purchase the property while still retaining their eligibility for the Brownfields Program. Many times it is necessary to expedite property transactions for a variety of reasons. The Arkansas Brownfields Law was amended to allow more flexibility with these transactions. A Brownfields Program applicant can now take title (purchase) the property very early in the process by submitting a LOI with their application. A LOI must be submitted before the property is purchased to maintain Brownfields eligibility.

Brownfields Revolving Loan Fund (BRLF)

The BRLF is also an EPA-funded program that provides low interest rate loans to public and private parties and non-profit organizations for cleanup of sites located in Arkansas.



2. Who is eligible to enter the Arkansas Brownfields program?



Individuals, companies, non-profits and real estate *developers* throughout the state are eligible to enter the Arkansas Brownfields Program with sites that meet the following criteria:

- the site is an abandoned or underutilized commercial, industrial, agricultural, or residential property for which no responsible party can reasonably be pursued for clean up;
- the applicant is **not** found liable for any existing contamination at the site; nor do they hold (or have held) title to the property;
- the site's redevelopment potential is complicated by known or perceived contamination;
- the site is mine-scarred land or it is contaminated with:
 - a hazardous substance as defined by CERCLA
 - a controlled substance; or
 - petroleum or petroleum products.

More detailed eligibility requirements can be found on the EPA Web page at: www.epa.gov/brownfields

3. Who is *not* eligible to enter the Arkansas Brownfields program?




- Properties placed or proposed to be placed on the National Priorities List (NPL).
- Sites responsible for corrective action under an EPA or ADEQ order or agreement (including permit).
- Sites not in compliance with final agency order or a court order secured by a state or federal agency regarding the treatment, storage or disposal of a regulated substance.
- Sites required to obtain a permit under state or federal environmental law, but did not obtain the required permit.
- The applicant has committed significant violations of a federally authorized program at the site.

Elective Sites Cleanup

Voluntary cleanups by site owners can be accomplished through the Elective Sites Cleanup program. This allows responsible owners to achieve a *Letter of No Further Action* for cleanup/remediation performed under the review and approval of ADEQ. For further information on this program contact Richard Healey at: healey@adeq.state.ar.us.

4. How quickly can a property be assessed utilizing the Arkansas Brownfields program?



The Arkansas Brownfields Program requires a Phase I and/or a complete Comprehensive Site Assessment (CSA). The time required conducting a Phase I and/or a CSA and review the report depends on many variables, including:

- the thoroughness and accuracy of the data provided.
- the nature and extent of contamination.
- the length of time participants take to respond to ADEQ inquiries and comments.
- which of the program tools the site owner uses.

Environmental site assessments are typically conducted in phases. A Phase I must be completed by all participants enrolled in the Arkansas Program to determine whether there is a potential for contamination or not. If no contamination is found after the Phase I the site will no longer be considered eligible to participate in the Brownfields Program.

A Comprehensive Site Assessment (CSA) and report is required if the Phase I indicates there is potential for the presence of contamination. A CSA, which is the second phase of the investigation, will involve sampling and analysis of one or more types of medium, i.e. soil, water, etc. The CSA will determine the extent of contamination and the types and probable sources of contamination, the level of risk to human health and the environment and whether the contamination needs to be cleaned up. A “Certificate of Completion” will be provided to the participant when all the requirements of the Property Development Decision Document are completed.



5. Is financial assistance available?

In addition to the financial assistance options for brownfields described below, the ADEQ Brownfields Coordinator is available to help communities identify additional funding options.

U.S. EPA Competitive Assessment Grants

Grants of up to \$200,000 are available to municipalities and quasi-governmental entities that bear no responsibility for causing the contamination. These competitive grants are available on an annual basis for planning and assessment of Brownfields sites contaminated with petroleum or hazardous substances.

6. Can the participant withdraw from the Arkansas Brownfields program at any time?



Brownfields Program

Yes! The Brownfields Program is a voluntary program and the participant can “back out” at any point in the process. However, it is important to remember that if the participant holds title to the property and fails to complete the program they will be held liable for all past contamination.

Brownfields Cleanup Revolving Loan Fund

Withdrawal is according to the loan agreement.

7. Does the participant need to conduct community involvement activities under Arkansas’ Brownfields program?



ADEQ maintains a public repository listing of sites enrolled under the Brownfields program. Additional community involvement that may be required for the Brownfields Program depends upon the tools in which the site owner uses, as described below.

State Response Grant

Yes. The Department is committed to providing opportunities for meaningful public participation in any clean up process. Participants in the Brownfields Program must provide notice of the Implementing Agreement (IA) in a newspaper of general circulation which serves the area in which the Brownfields property is located. Additionally ADEQ must public notice the Property Development Decision Document (PDDD) for a 30 day period. These public comments will be considered when evaluating whether the proposed clean up is appropriate.

A response to comments, if any, will be prepared by the Department and will become an attachment to the IA. However, ADEQ may require additional public participation activities if warranted.

Brownfields Cleanup Revolving Loan Fund

For BCRLF loan or grant, participation in the ADEQ Brownfields Program is required, including all community involvement requirements.

8. What do you charge for review and oversight of remediation under the Arkansas Brownfields program?



There is no fee for the services provided by the ADEQ Brownfields Program.

Brownfields Revolving Loan Fund

The Brownfields participant must be accepted into the Brownfields Program before making application to the BRLF. While there is no loan application fee, there are other charges. When the applicant has been notified of their acceptance into the program a \$500 NON REFUNDABLE underwriting fee must be paid. The \$500 will be applied to the Loan Closing fee. The Loan Closing fee is calculated as 1% of the principal loan amount or \$750, whichever is greater.

9. Is there an application process?



The application process for the Arkansas Brownfields Program should begin with a discussion of your project with the Brownfields Coordinator. Submittal of applications, as described below, ADEQ review of the application, and notification by the ADEQ to the applicant of acceptance or denial are also part of the process. ADEQ's Brownfields Coordinator provides information and assistance about application requirements. Contacts and links for applications are provided below.

Brownfields Program and Revolving Loan Fund

Please contact:

Terry Sligh, ADEQ Brownfields Coordinator
501-682-0867 or e-mail: terry@adeq.state.ar.us
or download the application at
<http://www.adeq.state.ar.us/hazwaste/bf>

- Submit a completed application to ADEQ
- ADEQ will promptly review the application and approve, deny, or request additional information to determine the applicant's eligibility to participate in the program.

Letter of Intent (LOI)

The decision to purchase the property before the Comprehensive Site Assessment has been approved and the Implementing Agreement has been signed is a decision solely within the participant's discretion. However, a LOI must be reviewed/approved by ADEQ before the closing of the property transaction in order to retain eligibility for the Brownfields program. Download an example of a Letter of Intent online at

http://www.adeg.state.ar.us/hazwaste/branch_programs/brownfields.htm#FormsResources

10. Where can the reader learn more about the Arkansas Brownfields program?



For more information contact:

Arkansas Brownfields Program

Terry Sligh, ADEQ Brownfields Coordinator
(501)-682-0867
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Elective Sites Cleanup

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