ENVIRONMENTAL
Fact Sheet

NEW HAMPSHIRE DEPARTMENT OF Environmental Services

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WMD-REM-7 2019

New Hampshire's Brownfields Cleanup Revolving Loan Fund

The Small Business Liability Relief and Brownfields Revitalization Act (Brownfields Law) was signed into law on January 11, 2002. The Act amended the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) by adding Section 104(k) whereby the U.S. Environmental Protection Agency (EPA) is authorized to provide funding to eligible entities in order to capitalize revolving loan funds for eligible brownfields sites. New Hampshire RSA 147-F:20 grants NHDES the authority to administer the federally funded RLF.

The objective of New Hampshire's Brownfields Cleanup RLF program is to ensure the availability of capital for both private and public borrowers and grantees in order to clean up and ultimately redevelop brownfields properties throughout the state. With the availability of RLF funds for low interest loans not otherwise available or obtainable from traditional commercial lenders, there has been a greater willingness by businesses and developers to take on the risk associated with remediation and subsequent redevelopment. Cleanup grants are an attractive incentive to municipalities and nonprofit organizations that have otherwise been reluctant to acquire brownfields sites without the financial resources available to address contamination.

Since the inception of the RLF in 1999, NHDES has made 10 loans totaling approximately $3.6 million. In addition, approximately $3 million has been awarded for 12 RLF grants. These loans and grants have made possible major remediation and redevelopment efforts at environmentally impacted properties located in every region of the state. The economic benefits associated with these redevelopment projects include the creation or retention of jobs, returning properties to municipal tax rolls, increasing property values thus increasing property tax revenue for municipalities, and leveraging private investment in redevelopment.

WHO IS ELIGIBLE TO APPLY FOR BROWNFIELDS CLEANUP RLF FUNDING?

Essentially, any person who is not potentially liable under CERCLA § 107 for contamination at the site and is one of the following is eligible to apply for Brownfields Cleanup RLF loans and grants:

- Local governments.
- Quasi-governmental entities.
- Regional councils.
- Redevelopment agencies.
- Tribal governments.
- Nonprofit organizations.

- Site owners
- Site developers

Note: Private site owners and developers are *not* eligible for grants.

WHAT SITES ARE ELIGIBLE FOR BROWNFIELDS CLEANUP RLF FUNDING?

Sites Eligible for Brownfields Funding

Sites eligible for Brownfields funding must meet the definition of a "brownfield site." The term means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

The term brownfield site also includes:

- Sites contaminated by controlled substances.
- Sites contaminated by petroleum or a petroleum product.
- Mine-scarred lands.

Sites Eligible for Brownfields Funding with a Property-Specific Determination

The following properties are generally ineligible brownfield sites unless EPA makes a property-specific determination:

- Properties subject to planned or ongoing removal actions under CERCLA.
- Properties with facilities that have been issued or entered into a unilateral administrative order, a court order, an administrative order on consent, or judicial consent decree or to which a permit has been issued by EPA or an authorized state under RCRA, FWPCA, TSCA or SDWA.
- Properties with facilities subject to RCRA corrective action (§3004(u) or §3008(h)) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures.
- Properties that are land disposal units that have submitted a RCRA closure notification or that are subject to closure requirements specified in a closure plan or permit.
- Properties where there has been a release of PCBs and all or part of the property is subject to TSCA remediation.
- Properties that include facilities receiving monies for cleanup from the LUST trust fund.

Sites *Not* Eligible for Brownfields Funding

The following three types of properties are not eligible for brownfields funding even on a property-specific basis.

- Facilities listed or proposed for listing on the National Priorities List (NPL).
- Facilities subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA.
- Facilities that are subject to the jurisdiction, custody, or control of the United States government.

WHAT ACTIVITIES ARE ELIGIBLE FOR FUNDING UNDER THE RLF PROGRAM?

Eligible cleanup costs that can be funded pursuant to an RLF loan or grant include:

- Preparation of a Remedial Action Plan.
- Oversight of cleanup activities.

- Installation of fences, warning signs, or other security or site control precautions.
- Installation of drainage controls.
- Stabilization of berms, dikes, impoundments; or drainage or closing of lagoons.
- Capping of contaminated soils.
- Using chemicals and other materials to retard the spread of release or mitigate its effects.
- Excavation, consolidation, or removal of contaminated soils.
- Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants, including petroleum.
- Removal of source materials, including free product recovery.
- Containment, treatment, or disposal of hazardous materials and petroleum contamination.
- Site monitoring, including sampling and analysis, that are reasonable and necessary during the cleanup process, including determination of the effectiveness of the cleanup.
- Site assessment activities that are reasonable, necessary and incidental to the cleanup process, such as confirmation sampling.
- Preparation of a quality assurance project plan (QAPP).
- Costs associated with meeting public participation and worker health and safety requirements, e.g., preparation of Community Relations Plans and Health and Safety Plans respectively.

BROWNFIELDS CLEANUP RLF LOAN AND GRANT AMOUNTS

Loan amounts have ranged from $75,000 to $930,000. While there is no set maximum loan amount, NHDES must take into consideration the need to maintain the long-term availability of funds.

NHDES periodically makes funds available to eligible entities for cleanup grants of up to $200,000 per site. The next cleanup grant competition is anticipated for 2020.

BROWNFIELDS CLEANUP RLF REPAYMENT TERMS

NHDES tailors each cleanup loan to the specific needs of the borrower and project. Repayment schedules and options are negotiated with each borrower. While we seek and prefer to make short-term "bridge" style loans with five-year terms or less, in certain cases we will consider longer payment terms.

Cleanup grants do not need to be repaid.

HOW TO APPLY FOR A BROWNFIELDS CLEANUP RLF LOAN OR GRANT

To apply for an RLF loan or grant, the following information must be submitted to NHDES:

- A signed, complete application form obtained from NHDES.
- An environmental site assessment report that conforms to the requirements of EPA's All Appropriate Inquiries Final Rule or the American Society of Testing and Materials (ASTM) E1527-13, entitled "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process."
- A description of the proposed redevelopment and future use of the property.
- Information regarding applicant's environmental compliance history.
- A proposed budget for the cleanup project.
- All supporting information required as part of the application package.

The New Hampshire Business Finance Authority (BFA) performs all credit analyses and reviews all proposed loan terms for prospective private RLF borrowers and provides NHDES with a written opinion

on the risks of making the loan. The BFA will request and review financial and legal records of prospective borrowers for credit assessment purposes.

Cleanup grants are awarded competitively.

This fact sheet is intended to highlight some of the key provisions of New Hampshire's Brownfields Cleanup RLF program. For more information, feel free to contact the NHDES at (603) 271-2183.

Disclaimer: Information contained in this fact sheet is current as of September 2019. Statutory or regulatory changes that may occur after that date may cause part or all of the information to become invalid. If there are any questions concerning the current status of information, please contact NHDES at (603) 271-2183.