

State of Vermont
Department of Environmental Conservation
Waste Management & Prevention Division
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BRELLA

The environmental liability limitation program is established under the Brownfields Reuse and Environmental Liability Limitation Act codified at 10 V.S.A. §6641-§6656. Participation in the program is open to persons who intend to purchase a brownfield property, as well as persons who already own a brownfield property, provided that they did not cause or contribute to the contamination and conduct corrective action at the site in support of a redevelopment.

BRELLA was created to provide applicants with protections from certain liabilities located in 6615 in exchange for having ANR review and oversee work plans for investigation, abatement, removal, remediation, and monitoring. The goals are to:

- 1) Reduce and eliminate threats to human health and the environment presented by hazardous material contamination;
- 2) establish risk-based restrictions on future use of property when setting cleanup goals for a contaminated property;
- 3) Reuse historically productive properties that will revitalize communities and help address issues raised by economic shifts while maintaining and enhancing existing public infrastructure;
- 4) Utilize public investment and technical assistance to promote successful redevelopment projects;
- 5) Reduce state legal liability risks associated with a brownfields site for parties who assume responsibility for property remediation.

General Obligations of Applicant:

- 1) Not provide any information by fraud, intentional misrepresentation, failure to disclose material information, or providing false certification;
- 2) Not engage in any activity that is inconsistent or interferes with monitoring, investigation, abatement, removal or remediation activities or the conditions or restrictions in a Certificate of Completion;
- 3) Provide access to and cooperate with the secretary and any person liable pursuant to 6615 subject to the approval of the secretary for investigation, abatement, removal, remediation, or monitoring activities at the property. The grant of access and all other provisions that the secretary determines necessary may be memorialized in the form of an interest in real



property that runs with the land and is binding against successors and assigns (Deed Restriction/Easement);

4) Comply with all rules and procedures required by the secretary and obtain all necessary permits, certifications, and other required authorizations prior to beginning any site investigation or cap;

5) Provide the Secretary with all documents and info relating to the performance of the investigation, abatement, removal, remediation, and monitoring activities;

6) Defend, indemnify, save, and hold harmless the state from all claims and causes of action related to, or arising from, acts or omissions of the applicant in performing the site investigation and CAP except in the case of either of the following:

- i. Reimbursement of fees or costs improperly required by and paid to the secretary by the eligible person or successor
- ii. A cause of action related the state's liability pursuant to subsection 6615 (a) of this title

Benefits of BRELLA

Forbearance

The state may not bring an action against an applicant based on liability pursuant to subdivision 6615 (a)(1) of this title, provided that the applicant has been determined to be eligible for the program and is working in good faith toward meeting the obligations required by this subchapter

30% Cost cap on Corrective Action Plan Amendments (*)

If a Corrective Action Plan does not perform as expected (but has been approved, implemented and COC issued) the state can request any liable person, EXCEPT the person or successor of the person that completed the CAP, to complete the required work; or complete the work with state funds.

Early Program withdrawal (*)

- Stabilize the Site
- Continue to comply with 6644 (general obligation)
- Can withdraw after the approval of a CAP and receive **personal liability protection** (6653(d)) from the Secretary of ANR

Removal of Hazardous Waste Tax

Certificate of Completion

- Changes in standards, releases that were not identified during Phase II or CAP implementation (but are not new) and were discovered after the CAP was approved;
- unregulated material that is now regulated;
- Closure upon substantial Completion; (*)
- Contribution protection from past owners;
- Transfers to subsequent property owners; and
- Release from liability; personal release from liability (*).

Access to Funds – Enrollment in BRELLA is required to access the revolving loan funds currently in VT. There are 4 RLFs offering low interest loans and grants to implement corrective action.

(* Available for prospective purchasers only.

If you would like to discuss any of the above items or have other questions I can be reached at 802-249-5822.

Sincerely,



Patricia Coppelino, Brownfields Program Manager
Brownfields Response Program
Waste Management and Prevention Division