

# Brownfields

## NYS BROWNFIELD FACT SHEET

Many times the transfer and redevelopment of sites is hindered by the presence of contamination. To encourage the transfer and redevelopment of these sites, by NYS has implemented changes to the Brownfield Cleanup Program (BCP) which includes liability protection and tax credits for the remediation and redevelopment of contaminated sites. If you have abandoned sites that are not contributing to the tax roll or to the community, and are concerned by the cost to clean up the contamination caused by others and the associated liability, now is the time to apply for the BCP, and move ahead with the project.

As with any program it is important to understand its definitions including:

**Brownfields** – sites where contaminant is present above soil cleanup objectives or other health-based or environmental standards, criteria or guidance adopted by the Department of Environmental Conservation (DEC) that are applicable based on the reasonably anticipated use of the property.

**Volunteer** – party not responsible for contamination at time of the contamination.

**Participant** – an applicant who either: (i) was the owner of the site at the time of the disposal or discharge of contaminants or (ii) is otherwise a person responsible according to applicable principles of statutory or common law liability, unless such person's liability arises solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants (such as a petroleum site with a stipulation agreement).

### Liability Protection

A volunteer or participant may apply to enter a site into the BCP to obtain a release of liability. Upon completion of the agreed upon site investigation and remediation the NYSDEC will issue a Certificate of Completion (COC). A COC allows the applicant to receive a limitation of liability from the NYSDEC which applies to contamination identified under the BCP.





## BROWNFIELDS

### BCP Tax Credits

Volunteers that obtain a COC from the NYSDEC are eligible for Site Preparation and Tangible Property Tax Credits. These BCP Tax Credits are as follows:

#### Site Preparation Tax Credit

Depending on the project, one can receive 27-50% in tax credits for the project. Eligible costs include: site remediation and easements such as architectural and engineering fees, appraisal, surveys, soil borings/other investigations, legal fees associated with any environmental easement required, operation, maintenance and monitoring of treatment systems, testing for asbestos or lead paint, legal fees associated with construction loan closing, cost certification and insurance.

#### Tangible Property Tax Credit

This credit can range from 10-24%. It includes costs “associated with actual construction of tangible property incorporated into the physical structure and costs associated with the foundation of any buildings constructed as part of the site cover that are not properly included in the site preparation component”. In particular, the tax credit is limited to property with a useful life of at least 15 years, and non-portable equipment, machinery, and associated fixtures and appurtenances on the site. The Baseline Tangible Property Tax Credit (based on tax status) is 10%, with a maximum percentage of 24%.

Presented below are the breakdowns of the Tangible Property tax credits:

- **Baseline credit:** 10%
- **Environmental Zone:** At least half of the site is located in an EN-zone – 5%
- **Track 1 Cleanup:** Unrestricted soil and groundwater cleanup – 5%
- **Brownfield Opportunity Areas:** Development conforms with the goals and priorities of the designated Brownfield Opportunity Area (BOA) in which the site is located – 5%
- **Affordable Housing:** 5%
- **Manufacturing:** 5%

### HRP Overview

Founded in 1982, HRP Associates, Inc. (HRP) is a multidisciplinary civil and environmental consulting engineering firm that can help you in the fields of site investigation and remediation, environmental health and safety compliance, and civil engineering.

Please contact us for additional information and to schedule a meeting today:

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