

FLORIDA BROWNFIELDS REDEVELOPMENT ACT 1998 ANNUAL REPORT

SUMMARY

The Brownfields Redevelopment Act (Act) was created by the Florida Legislature in 1997 (Chapter 97-277, L.O.F.) and amended in 1998 (Chapter 98-75, L.O.F.). The primary goals of the Act were to reduce public health and environmental hazards on existing commercial and industrial sites that are abandoned or underused due to these hazards; create financial and regulatory incentives to encourage voluntary cleanup and redevelopment of sites; derive cleanup target levels and a process for obtaining a “No Further Action” letter; and provide the opportunity for Environmental Equity and Justice.

Since July 1997, the Department of Environmental Protection (DEP) has assisted in the early development of the Brownfields Program. Emphasis has been placed on outreach and education for a variety of interest groups including communities, environmental consultants, lenders, local governments, economic redevelopment boards, and Realtors. While public outreach was underway, several administrative actions were also required. These included adopting a brownfields cleanup criteria rule, hiring a brownfields coordinator in each of the DEP’s district offices, partnering with the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) for the various economic incentives, developing and adopting a tax credit incentive rule, developing a model brownfield site rehabilitation agreement, developing and maintaining an Internet web site, cooperating with the U.S. Environmental Protection Agency (EPA) in its federal Brownfields Initiative, and attempting to negotiate a Memorandum of Agreement with the EPA addressing each agency’s authority at Florida brownfield sites.

STATE PROGRAM STATUS

In 1997, the legislature created the Brownfields Redevelopment Act (Chapter 97-277, L.O.F.) to encourage the reuse and redevelopment of brownfield sites within state-designated brownfield

areas. Brownfield sites are “sites that are generally abandoned, idled, or under-used industrial and commercial properties where expansion or redevelopment is complicated by actual or perceived environmental contamination.” The Act provided the framework for Florida’s Brownfields Program to facilitate redevelopment of these sites while also providing for environmental cleanup and protection of the public health and the environment.

Brownfields Cleanup Criteria Rule (Chapter 62-785, F.A.C.)

The Act required that, by July 1, 1998, the DEP establish criteria by rule for the purpose of determining, on a site-specific basis, the necessary steps for the investigation and cleanup of brownfield sites and the contaminant levels at which a cleanup can be deemed completed. The Act required that the contamination cleanup criteria at sites within a brownfield area incorporate to the maximum extent feasible risk-based corrective action (RBCA) principles to achieve protection of human health and safety and the environment in a cost-effective manner. Using RBCA principles, the DEP established a cleanup process and default cleanup target levels for a brownfield site within a state-designated brownfield area that are protective under actual circumstances of exposure. On April 30, 1998, Chapter 62-785, F.A.C., Brownfields Cleanup Criteria Rule, was adopted by the Environmental Regulation Commission with an effective date of July 6, 1998.

Voluntary Cleanup Tax Credit Rule (Proposed Chapter 62-788, F.A.C.)

In order to provide additional economic incentives for brownfields redevelopment, the 1998 Florida Legislature created a tax credit against either intangible personal property tax or corporate income tax for taxpayers that voluntarily participate in the cleanup of a brownfield site in a designated brownfield area pursuant to s. 376.80, F.S.

Chapter 98-189, L.O.F., allows a credit of 35 percent of the costs of voluntary cleanup activity that is

integral to site rehabilitation, with a maximum of \$250,000 per site per year. The tax credit allocation for FY 98-99 is \$2 million. The tax credit bill provided the authority for the DEP to adopt rules, to prescribe the necessary forms required to claim tax credits, and to provide the administrative guidelines and procedures required for administration of the tax credit. The DEP has promulgated a draft rule (Proposed Chapter 62-788, F.A.C.) and is seeking final rule adoption in early 1999.

Streamlining of the Brownfields Regulatory Process

A concern of the regulated public is the streamlining of the review of technical documents and the cleanup process itself. Each of the DEP's six district offices has added a brownfields coordinator to facilitate brownfields projects. Their duties include streamlining the review of technical reports, negotiating brownfield site rehabilitation agreements, educating the public about the new program, partnering with local governments and serving as the DEP's focal point for brownfields issues. Also, one person in Tallahassee serves as the DEP brownfields liaison for district staff, OTTED, local and federal governments, and the public. The liaison is responsible for maintaining consistency across the districts in implementing the Act and serves as the focal point for EPA contact on brownfields.

Memorandum of Agreement with EPA

The Act directed the DEP to attempt to negotiate a Memorandum of Agreement with the EPA under which the EPA would forego enforcement at state-designated brownfield sites that are cleaned up or undergoing cleanup in accordance with the provisions of the Act. Negotiations with EPA-Region 4 were initiated in September 1997. Federal guidance for developing Superfund memorandums of agreement with state voluntary cleanup programs in conjunction with the federal Brownfields Initiative was withdrawn during the preliminary stages of these negotiations because most states found it unacceptable. Nevertheless, negotiations continued between DEP and EPA-Region 4. Resolution on all but two major points was reached after several months of intense negotiations. The unresolved points are: (1) the application of RBCA principles to the cleanup of state-designated brownfield areas especially under what circumstances alternate cleanup target levels may be applied; and (2) the "universe" of sites at

which the EPA is willing to release its authority under Superfund and allow coverage under an agreement. Negotiations are continuing to resolve the two remaining points.

State-Designated Brownfield Areas

Local governments are primarily responsible for identifying, delineating, and then designating by resolution parcels to be included in a brownfield area. An important component of the designation process is the formation of an advisory committee to improve public participation and receive public comment on rehabilitation and redevelopment of the designated brownfield area, future land use, local employment opportunities, community safety, and environmental justice. The cities of Clearwater, Miami, and Ocala have each passed resolutions designating brownfield areas within their jurisdictions. (See Table I, State-Designated Brownfield Areas.)

The City of Clearwater was the first to pass a resolution to designate a state-brownfield area. The designated area encompasses 1,100 acres and is also the same area identified for Clearwater's EPA Regional Brownfields Assessment and Demonstration Pilot. Over the past months, the City of Clearwater has performed approximately sixteen environmental site audits to identify and characterize potentially contaminated sites within the designated area. One site is in monitoring status after the performance of active remediation. The redevelopment plans for this site include construction of the headquarters of an international software company.

The City of Miami's state-designated area is known as Wynwood. Two parcels encompassing approximately three acres are planned for cleanup and redevelopment. Plans for redevelopment of the area include construction of a state of the art concrete facility and the restoration of an existing industrial building for future leasing. This area is also identified as "Site 1" in Miami's EPA Regional Brownfields Assessment and Demonstration Pilot.

The City of Ocala's brownfield area encompasses 329 acres. Presently, Ocala is in the planning stages for conducting environmental audits and evaluating the redevelopment potential of several sites. (See Table II A and B, Acreage.)

Other local governments identified in this report have been active in identifying potential brownfield

areas for state-designation, creating local economic incentives (e.g., revolving loans), offering regulatory incentives, creating brownfields task forces, hiring local brownfields coordinators, performing site inventories, and engaging in community outreach.

Brownfield Site Rehabilitation Agreement

Another element of the brownfields program is the execution of a “brownfield site rehabilitation agreement” (“agreement”) with the “person responsible for brownfield site rehabilitation” (“responsible person”) and the DEP. For an agreement to be executed, a brownfield area must be designated and a responsible person must be identified. The agreement provides the DEP and the public assurance that site rehabilitation will be conducted in accordance with the statute and the Brownfield Cleanup Criteria Rule, and provides liability protection for the responsible person. The agreement contains various commitments by the responsible person, including milestones for completion of site rehabilitation tasks and submittal of technical reports and plans as agreed to by the responsible person and the DEP. It also contains a commitment by the DEP to review technical reports according to an agreed upon schedule. Presently, one agreement has been executed between the DEP and the developer for the Wynwood Brownfield Area located in the City of Miami. (See Table III, **Brownfield Sites.**)

Public Outreach and Education

After the adoption of the Brownfields Cleanup Criteria Rule in mid-1998, the second half of the year involved numerous outreach and educational speaking engagements by the DEP district and Tallahassee staff for various interested city and county organizations, trade shows, and industry groups. Several times during the year various mailings were made to city and county organizations explaining both the economic and technical features of Florida’s brownfields program. Additionally, the DEP has established a brownfields web site on the Internet for electronically distributing up-to-date information on the program as well as linking to the EPA’s brownfields web site and to other federal agencies involved in the partnering of the redevelopment of brownfields. The DEP’s brownfields web address is:

“<http://www2.dep.state.fl.us/waste/programs/brwnfld/index.htm>”.

The DEP district staff routinely provides both technical and administrative support to established brownfields task forces or similar coalitions for EPA designated pilot projects and for Florida brownfield grant recipients including Clearwater, Gainesville, Jacksonville, Miami, Ocala, Opa-Locka, St. Petersburg, Tallahassee, and Broward, Escambia, and Miami-Dade Counties.

The Florida Chamber of Commerce, Florida Bankers Association, Florida Engineering Society, Florida Environmental Expo, Florida Redevelopment Association, Nova Southeastern University’s Shepard Broad Law Center and Water Environmental Federation are a partial listing of the non-governmental organizations assisted by outreach assistance and education from presentations explaining the Brownfields Program.

FEDERAL BROWNFIELDS ECONOMIC REDEVELOPMENT INITIATIVE

Brownfields Assessment and Demonstration Pilots

Over the past two years, several communities within Florida have received EPA designations as national or regional Brownfields Assessment and Demonstration Pilots (Pilots). The Pilots, each funded at up to \$200,000 over two years, will test redevelopment models, direct special efforts toward removing regulatory barriers without sacrificing protection, and facilitate coordinated site assessment, environmental cleanup and redevelopment efforts at the federal, state, and local levels. (See Table IV, **EPA Brownfields Assessment and Demonstration Pilots.**)

Brownfields Showcase Communities

Sixteen communities around the nation were selected as Brownfields Showcase Communities. In EPA-Region 4, Eastward Ho!, which encompasses the eastern portions of Palm Beach, Broward and Miami-Dade Counties, was selected to receive this distinguished designation. A federal employee will be assigned to each Showcase Community to assist with the coordination of technical and financial support from the participating federal agencies. Participating agencies and programs will vary for each Showcase Community depending upon the particular community’s needs and plans. For example, an urban community might be served by different programs and resources than a more rural

community. Financial assistance, grants and cooperative agreements from participating agency programs are subject to the requirements of those programs.

Brownfields Job Training and Development Demonstration Pilots

The Brownfields Job Training and Development Demonstration Pilots also provide federal funding for brownfield projects within communities. The job training and development pilots provide up to \$200,000 over two years. Two cities in Florida have received this designation. The EPA selected Career Options of Pinellas, Inc. for a Brownfields Job Training and Development Demonstration Pilot in the amount of \$141,364. Career Options of Pinellas plans to concentrate its workforce development efforts in the City of Clearwater, which is also a Brownfields Assessment and Demonstration Pilot. The EPA also selected Miami-Dade Community College for a Brownfields Job Training and Development Demonstration Pilot in the amount of \$200,000. Miami-Dade Community College will concentrate its workforce development efforts in the City of Miami and Dade County, both of which are Brownfields Assessment and Demonstration Pilots. The job training and development pilot will target Miami's distressed Wynwood and Model City neighborhoods.

The pilots will bring together community groups, job training organizations, educators, labor groups, investors, lenders, developers, and other affected parties to address the issue of providing environmental employment and training for residents in communities affected by brownfields. The goals of the job training and development pilots are to facilitate cleanup of brownfields sites contaminated with hazardous substances and prepare trainees for employment in the environmental field, including training in alternative or innovative treatment technologies.

Brownfields Cleanup Revolving Loan Fund Demonstration Pilots

The U.S. EPA Brownfields Cleanup Revolving Loan Fund Demonstration Pilot program is designed to enable eligible states, counties, cities, towns, U.S. territories, and tribes to capitalize revolving loan funds that will be used to safely clean up brownfields in order to facilitate their sustainable reuse. The EPA

provides financial assistance to an eligible entity (e.g., a municipality) to establish its own revolving loan fund that will be used to make loans for authorized purposes (i.e., brownfields cleanups). A revolving loan fund charges interest on the loans, generally at a low interest rate. This fund is termed revolving because it uses loan repayments to make new loans for the same authorized purposes. The EPA awarded 24 pilots in fiscal year 1997. The City of St. Petersburg received \$350,000 towards a revolving loan fund.

Targeted Brownfields Site Assessment Projects

In 1998 and 1999, under a Cooperative Agreement with the EPA, the DEP is conducting Targeted Brownfields Site Assessments for local governments at properties with known or suspected contamination. The Targeted Brownfields Site Assessment funding is up to \$50,000 for each selected local government. The purpose of the Targeted Brownfield Site Assessments is to assist state and local governments and tribes, especially those without EPA Brownfields Assessment Demonstration Pilots, in reducing the uncertainties associated with contamination at brownfields. The local governments currently receiving Targeted Brownfield Site Assessment assistance include the Cities of Jacksonville, Ocala, Opa-Locka, and Tampa, and Miami-Dade County. Several additional local governments were contacted for submittal of proposals in 1999. These local governments include: the Cities of Fort Lauderdale, Fort Myers, Hollywood, Lakeland, Miami, North Miami Beach, Ocala, Sarasota, and Tampa, and Broward and Hillsborough Counties. (See Table V, **Brownfields Funding - State and Federal Programs.**)

ADDITIONAL INFORMATION

For information regarding this report contact Mr. Roger B. Register, Brownfields Liaison, Bureau of Waste Cleanup, Department of Environmental Protection, at (850) 488-0190.

For information on the aspects of the brownfields program related to grants and economic incentives administrated by the Office of Tourism, Trade, and Economic Development contact either Ms. Monique Cheek or Ms. Mary Helen Blakeslee at (850) 922-8742.

Table I

State-Designated Brownfield Areas



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State-Designated Brownfield Areas

<i>Area ID</i>	<i>Area Name</i>	<i>City</i>	<i>County</i>	<i>DEP District</i>	<i>Resolution Date</i>
BF529701000	Clearwater Area	Clearwater	Pinellas	Southwest	10/17/1997
BF139801000	Wynwood Area	Miami	Dade	Southeast	03/10/1998
BF429801000	Ocala Area	Ocala	Marion	Central	03/24/1998

Table II A

Acreage

for State-Designated Brownfield Areas



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Acreages for State-Designated Brownfield Areas

<i>Area ID</i>	<i>Area Name</i>	<i>Acreage</i>
BF529701000	Clearwater Area	1100
BF429801000	Ocala Area	329
BF139801000	Wynwood Area	3
<i>Total Approximate Acreage:</i>		<u>1432</u>

Table II B

**Acreage
for Brownfield Sites**



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Acreages for Brownfield Sites

<i>Area ID</i>	<i>Site ID</i>	<i>Site Name</i>	<i>City</i>	<i>County</i>	<i>DEP District</i>	<i>Acreage</i>
BF139801000	BF139801001	Wynwood Site	Miami	Dade	Southeast	3
<i>Total Approximate Acreage:</i>						3

Table III

Brownfield Sites



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Brownfield Sites with Executed Brownfield Site Rehabilitation Agreements

<i>Area ID</i>	<i>Site ID</i>	<i>Site Name</i>	<i>City</i>	<i>County</i>	<i>DEP District</i>
BF139801000	BF139801001	Wynwood Site	Miami	Dade	Southeast

Table IV

EPA Assessment and Demonstration Pilots



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EPA Brownfield Assessment and Demonstration Pilots

<i>Pilot Name</i>	<i>Date</i>	<i>Amount</i>
Clearwater	09/01/1996	\$100,000
Eastward Ho!	07/01/1998	\$200,000
Escambia County	07/01/1998	\$200,000
Gainesville	04/01/1997	\$100,000
Jacksonville	04/01/1997	\$200,000
Miami	09/01/1996	\$100,000
Miami-Dade County	04/01/1997	\$200,000
Seminole Tribe of Florida***	05/01/1998	\$200,000
St. Petersburg	04/01/1997	\$200,000
Tallahassee	04/01/1997	\$191,000
<i>Total:</i>		<i>\$1,691,000</i>

**** \$200,000 funding set aside in an Interagency Agreement between EPA and the U.S. Army Corp of Engineers to perform brownfield related activities.*

Table V

Brownfields Funding - State and Federal Programs



Brownfields Program

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Brownfields Funding State and Federal Programs

<i>Program Name</i>	<i>State</i>	<i>Federal</i>						<i>Total Amount</i>
	<i>OTTED Grant</i>	<i>ADP</i>	<i>ShowCase</i>	<i>JTDDP</i>	<i>CRLFDP</i>	<i>TBSAP</i>	<i>Other</i>	
Broward County	\$140,000							\$140,000
Clearwater*	\$500,000	\$100,000		\$141,364			\$225,000	\$966,364
Eastward Ho!		\$200,000	\$200,000					\$400,000
Escambia County	\$140,000	\$200,000						\$340,000
Gainesville	\$200,000	\$100,000						\$300,000
Jacksonville**	\$200,000	\$200,000				\$50,000	\$300,000	\$750,000
Miami	\$500,000	\$100,000		\$200,000				\$800,000
Miami-Dade County**	\$200,000	\$200,000				\$50,000	\$300,000	\$750,000
Ocala	\$140,000					\$50,000		\$190,000
Opa-Locka	\$140,000					\$50,000		\$190,000
Seminole Tribe of Florida***		\$200,000						\$200,000
St. Petersburg	\$500,000	\$200,000			\$350,000			\$1,050,000
Tallahassee	\$200,000	\$191,000						\$391,000
Tampa						\$50,000		\$50,000
Total Amount:	\$2,860,000	\$1,691,000	\$200,000	\$341,364	\$350,000	\$250,000	\$825,000	\$6,517,364

ADP--Assessment and Demonstration Pilot

ShowCase--ShowCase Community

JTDDP--Job Training and Development Demonstration Pilot

CRLFDP--Cleanup Revolving Loan Fund and Demonstration Pilot

TBSAP--Targeted Brownfields Site Assessment Projects

** 1998 Section 5, Specific Appropriation, 1395A Special Category*

*** 1998 Section 6, Specific Appropriation, 1727 Lump Sum (OTTED)*

**** \$200,000 funding set aside in an Interagency Agreement between EPA and the U.S. Army Corp of Engineers to perform brownfield related activities.*