

128(a) Funding

Congress passed the Small Business Liability Relief and Brownfields Revitalization Act (the Act) in 2002 to “promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.” The Act established a competitive grant program for municipalities and economic development authorities (i.e., local community grantees) known as Section 104(k). Congress also recognized that states need support in order to develop and improve their Brownfields and other voluntary site cleanup programs and established a grant program known as Section 128(a).

The New England states have a legacy of former industrial sites and therefore have a large number of Brownfields. To address this challenge, MassDEP was among the first agencies to receive 128(a) funding and has been using it to implement its program since 2003.

The nationwide success of the EPA Brownfields Program, particularly in New England, has resulted in a growing demand among states and tribes for 128(a) funding. However, Congress set a cap on the maximum annual funding for 128(a) grants at \$50 million. EPA is now unable to meet the demand of all of the states and tribes that need support; and therefore has had to reduce funding for longstanding programs like the one in Massachusetts.

The Massachusetts **Brownfields Support Team (BST) Initiative** brings together staff from EPA MassDEP, the Executive Office of Housing and Economic Development (EOHED), MassDevelopment, and other state and regional agencies, (the Team) to help municipalities solve the problems that impede the redevelopment of contaminated properties. The Team works with communities to identify site- and project-specific issues that may hinder redevelopment of properties and provide support in the form of expedited site inspections, reviews, and approvals; technical assistance on expedited permitting; funding for assessment and cleanup; and coordination on liability issues.

BST partner agencies have committed more than \$20 million for assessment, cleanup and demolition activities at 16 projects across the state. These coordinated efforts helped resolve numerous technical and legal issues that had served as roadblocks to the redevelopment of almost 500 acres of contaminated land.

MassDEP Program Highlights

More than 44,000 sites have been assessed and cleaned up through the semi-privatized Waste Site Cleanup Program since 1993. The vast majority of the cleanups progress under the direction of an LSP, reducing potential health and environmental risks posed by contamination and allowing sites to be used (or re-used) safely.

Following the passage of the Massachusetts Brownfields Act in 1998 more than 1,800 sites have received targeted Brownfields support to facilitate the cleanup and redevelopment process.

As a result, 128(a) funding to MassDEP has been cut by approximately 30 percent between 2008 and 2013. The ability for MassDEP to provide the services that Brownfields projects require for success has been severely compromised. For example, between 2003 and 2010, MassDEP used 128(a) funding to conduct assessments and cleanups at over 30 abandoned Brownfields sites across the Commonwealth, benefitting the local communities and municipalities. Due to the funding reductions this work had to be discontinued in 2011.

Unless Congress amends the Act and allocates more resources, additional cuts to MassDEP are likely in the future. A potential solution is for Congress to increase or remove the cap on 128(a) funding and allow EPA to provide states with the resources needed to ensure that the federal funds provided to communities for Brownfields projects result in success.

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MassDEP and the Northeast Waste Management Officials' Association (NEWMOA) cooperated on the development of this publication.

September 2013



Getting Properties Back to Work

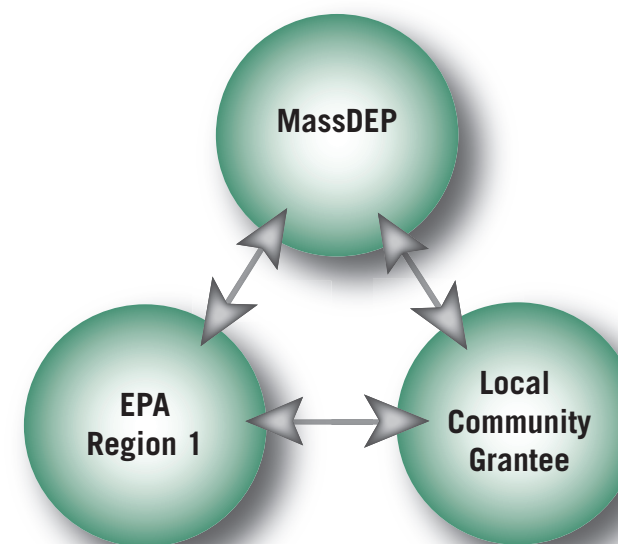
Waste Site Cleanup Programs Key for Massachusetts Communities



Massachusetts
Department
of
ENVIRONMENTAL
PROTECTION

Brownfields are properties, such as former gas stations, mills, and factories where redevelopment and reuse are complicated by the potential for contamination. Many of these sites are abandoned, lack financially viable owners, and are often considered blights on their communities. The EPA established the Brownfields Program in 1995 to support the assessment and cleanup of these abandoned properties and leverage public and private redevelopment investment that would otherwise not occur. Cleaning up and reinvesting in Brownfields facilitates job growth, increases local tax bases, utilizes existing infrastructure, reduces development pressures on open land, and improves the environment. EPA supports Brownfields assessment and cleanup through a variety of grants to eligible applicants.

The success of the Brownfields Program in Massachusetts depends on a partnership between the Massachusetts Department of Environmental Protection (MassDEP), the local community Grantees, and EPA Region 1. All three entities bring something different to the table. Each is important and key to the success of a Brownfields project.



MassDEP's involvement in Brownfields projects is vital. MassDEP helps guide grantees through the site characterization and cleanup process by contributing the *technical and regulatory expertise* needed for successful remediation and redevelopment of these sites.

EPA Region 1 provides grant funding to local communities, regional economic development agencies, and other eligible parties that enables them to characterize and cleanup Brownfields in accordance with the Massachusetts cleanup program requirements. EPA manages the grant, providing oversight and guidance. EPA also provides limited technical assistance and outreach to the public.

The **Grantee** is usually a municipality, regional planning commission, or other local non-profit entity. Grantees typically own the site chosen for remediation and redevelopment, and therefore, have important relationships with the community, particularly local residents and developers. Grantees hire specialized cleanup consultants (Licensed Site Professionals, or LSPs) to characterize the property and manage the cleanup effort. However, they often seek input from MassDEP to ensure that the site characterization and cleanup plans are consistent with State program requirements and are most appropriate and cost-effective for their site.

In addition to administering state cleanup laws and regulations, MassDEP takes an active role in promoting Brownfields redevelopment projects in a variety of ways and offers the following assistance:

- **Technical Assistance for Developers, Communities, & Organizations** – MassDEP has experts in Boston and each MassDEP regional office to make available information on the cleanup process, funding, and, in some instances, site-specific information, to assist parties undertaking these projects. MassDEP maintains a list of cities, towns, counties, and regional planning agencies that have Brownfield sites that may be suitable for redevelopment. Finally, MassDEP evaluates and issues a letter of acknowledgment and support of eligibility for federal brownfields grants and incentives.

- **Support for Environmental Justice Communities** – The “Environmental Justice Initiative” supported by MassDEP and the Massachusetts Executive Office of Energy and Environmental Affairs (EOEEA) ensures that environmental justice populations have a strong voice in environmental decision-making, with priority given to sites where unknown levels of contamination and unknown risk are of concern to the community and hamper future development.
- **Flexibility on Cleanup Timelines** – The “Special Project Designation” is a provision in MassDEP’s Waste Site Cleanup regulations that provides flexibility for Brownfields and other publicly-funded cleanup projects so that these sites can move forward with remediation and redevelopment on a schedule that works best for the overall project.



Kendall Square Genzyme Corporation – before and after

Spotlight: Redevelopment in Kendall Square / Genzyme Corporation

For almost a century, the former Cambridge Gas and Light Company operated a Manufactured Gas Plant (MGP) in Kendall Square in Cambridge, MA. Despite its attractive location, the property remained vacant for over 20 years, in part due to significant coal tar contamination. In 1998, Lyme Properties purchased the site for mixed-use development including hotel, residential, retail, entertainment, office, life science uses, and underground parking.

Environmental cleanup began in 1999. Coal tar waste and petroleum contamination were present at significant concentrations throughout a large portion of the

“The magnitude of the environmental contamination and uncertainty involved in remediating this site was so great that it sat undeveloped for decades. We engaged MassDEP early on in the process once we had an initial plan for remediation and site closure. MassDEP listened to our plan, made comments, and provided a level of confidence that this approach would be acceptable. MassDEP also participated in the public meetings, which I think gave the public a level of confidence in the Project.”

— Jamie Greacen,
MA LSP, Mabbett & Associates, Inc.

property, and remediation involved soil excavation and in-situ soil stabilization. MassDEP worked with Lyme Properties and their consultant, RETEC Group, Inc., to ensure that the remedial actions allowed for coordinated and streamlined property redevelopment. Working together with MassDEP’s Brownfields staff and using MassDEP’s flexible cleanup regulations allowed permanent closure statements for the contamination source areas to be filed individually as cleanup work progressed, greatly facilitating the project’s phased redevelopment.

Remediation costs exceeded \$25 million, but by late 2006, construction of an underground parking garage, outdoor area, two commercial buildings, and residential space was complete. Genzyme Corporation, an internationally-recognized biotechnology firm, located their world headquarters on the site in a LEED-rated green building, employing almost 1,000 people to work at the new complex.

Spotlight: Indian Orchard Business Park

The 54-acre Indian Orchard Business Park (IOBP) Project is located within a state-designated environmental justice neighborhood and represents an opportunity to assemble the largest tract of potentially developable land within the City of Springfield. This site is comprised of four former industrial and manufacturing properties with a mixture of publicly- and privately-owned sites. Contamination and derelict building conditions have complicated the City’s efforts to redevelop the site as an integrated modern business complex.

In May 2011, the Springfield Redevelopment Authority (SRA) authorized land disposition of a 12-acre portion of this project for a 2.2 megawatt solar power generating facility. MassDEP helped the City with technical assistance concerning cleanup issues (e.g., removing six large underground storage tanks and reviewing open release tracking numbers), and hosted informational and liability meetings between the City and Western MassElectric. This collaborative approach enabled the construction of the solar array to be completed on the former “Foundry

Building” property that was used to produce iron and steel valves. Western Massachusetts Electric Company (WMECo) and the SRA have entered into a 30-year lease term with annual payments to the City. Under the current plan, revenue from the lease will fully satisfy the debt obligation on the property within five years. In addition, WMECo has agreed to pay all legally-assessed tax obligations yielding more than \$500,000 in annual revenue to the City.



Indian Orchard Business Park – before and after

“From start to finish, this Project is an example of how state and local entities can work together for the good of the community. In Projects like these, the process can often get drawn out. MassDEP played a critical role in the coordination and helped streamline this effort to get the site cleaned up and ready for redevelopment. Various departments within MassDEP met every two weeks to ensure that the assessment, remediation, demolition, and redevelopment were progressing as they should. What used to be a blight on this neighborhood is now a source of pride. The community is thrilled with the end result of the 12-acre solar farm – the largest solar facility in New England.”

— Chris Moskal,
City of Springfield Planning Department