



PA 22-68—sSB 218
Commerce Committee

AN ACT CONCERNING BROWNFIELD REMEDIATION

SUMMARY: This act makes several changes to the Abandoned Brownfield Cleanup (ABC) program and the Brownfield Remediation and Revitalization program (BRRP). For both programs, it does the following:

1. makes lessees with a term of up to five years eligible to participate,
2. requires applicants to acquire title to a property within two years after the Department of Economic and Community Development (DECD) commissioner designates it for inclusion in the applicable program and authorizes the commissioner to extend this deadline at the applicant's request, and
3. expressly requires participants to remain in compliance with the respective programs' obligations to receive their liability protections.

The act also makes changes specific to each program. For the ABC program, the act, among other things, sets deadlines by which (1) participants must enter the state's voluntary remediation program and (2) the Department of Energy and Environmental Protection (DEEP) commissioner must (a) determine whether to audit the verification of a property's investigation and remediation and (b) complete this audit.

For the BRRP, the act requires the DECD commissioner to accept property nominations meeting certain criteria from Connecticut brownfield land banks (CBLBs). Existing law requires him to accept nominations from municipalities and economic development agencies. The act makes several conforming changes to extend to CBLBs additional program rights that municipalities and economic development agencies possess (e.g., the ability to request certain fee waivers for nominated properties).

Lastly, the act makes technical changes.

EFFECTIVE DATE: October 1, 2022

LESSEES

The law generally makes persons ineligible to participate in the ABC program and BRRP if they are affiliated with the person responsible for the property's pollution through any contractual relationship, other than a relationship by which the owner's or applicant's interest in the eligible property is to be conveyed or financed. The act creates an additional exception for a lease of up to five years, thus allowing these lessees to participate if otherwise eligible.

ABANDONED BROWNFIELD CLEANUP PROGRAM

OLR PUBLIC ACT SUMMARY

Deadline to Enter the Voluntary Remediation Program

Existing law requires persons accepted into the ABC program to enter the state's voluntary remediation program. The act requires that they do so within six months after taking title to an eligible property unless the DECD commissioner, in consultation with the DEEP commissioner, grants an exception.

DEEP Verification Audits

The voluntary remediation program (see above) generally requires participants to (1) investigate and remediate environmental conditions on the property and (2) have the investigation and remediation verified by a licensed environmental professional (LEP). The verification is subject to audit by the DEEP commissioner.

The act establishes deadlines by which the DEEP commissioner must (1) determine whether to audit an ABC program verification and (2) complete the audit. These deadlines match those in existing law for BRRP.

Audit Time Limits. The act requires the DEEP commissioner, within 60 days after receiving a verification for a designated property (or a portion of one), to notify the DECD commissioner and program-eligible person whether she will audit it. The DEEP commissioner must conduct the audit within 180 days after the department receives the verification, with certain exceptions (see below). The act (1) allows her to request more information during an audit and (2) suspends the audit deadline if an eligible person fails to provide this information within 14 days after the request. The suspension lasts until the information is provided.

Exceptions. In addition to the suspension described above, the act allows the DEEP commissioner to exceed the 180-day time limit for the following reasons:

1. she has reason to believe that an eligible person (a) obtained a verification using materially inaccurate, erroneous, or otherwise misleading information or (b) made material misrepresentations in submitting the verification to DEEP;
2. she determines that (a) there was a violation of law material to the verification or (b) information exists indicating the property's remediation did not prevent releases that are a substantial threat to public health or the environment;
3. an eligible person failed to complete required post-verification monitoring and maintenance; or
4. the verification relies on an environmental land use restriction that was not recorded in the land records of the municipality in which the property is located.

Audit Process. The act requires the DEEP commissioner, within 14 days after completing the audit, to provide written findings either approving or disapproving the verification to the eligible person, DECD commissioner, and issuing LEP. A disapproval must include the reasons for the decision. Under the act, an eligible person must submit a report of cure of noted deficiencies to the DECD and DEEP commissioners within 60 days after receiving a notice of disapproval. Within 60 days after receiving the cure of noted deficiencies report, the DEEP commissioner must issue a successful audit closure letter or a written disapproval of the report.