

BROWNFIELDS IN CONNECTICUT

Connecticut
General Assembly



LEGISLATIVE
PROGRAM REVIEW
AND
INVESTIGATIONS
COMMITTEE

December 1998

**CONNECTICUT GENERAL ASSEMBLY
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE**

The Legislative Program Review and Investigations Committee is a joint, bipartisan, statutory committee of the Connecticut General Assembly. It was established in 1972 to evaluate the efficiency, effectiveness, and statutory compliance of selected state agencies and programs, recommending remedies where needed. In 1975, the General Assembly expanded the committee's function to include investigations, and during the 1977 session added responsibility for "sunset" (automatic program termination) performance reviews. The committee was given authority to raise and report bills in 1985.

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Staff for this project

Anne E. McAloon

LEGISLATIVE PROGRAM REVIEW
& INVESTIGATIONS COMMITTEE

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Key Points

BROWNFIELDS IN CONNECTICUT

- Brownfields are abandoned or under-used sites where redevelopment is complicated by real or perceived environmental contamination
 - Brownfields can be located in any part of the state
 - Key activities connected with brownfields involve the identification of sites, assessment of contamination, and cleanup in accord with state standards
 - Primary responsibility for brownfields at the state level is divided between the Department of Economic and Community Development, the Department of Environmental Protection, and the Connecticut Development Authority
 - Other participants include municipalities, the U. S. Environmental Protection Agency, property owners, developers, bankers, insurers, attorneys, environmental engineers, and real estate agents
 - Many tools and programs considered important for dealing with brownfields are already in place in Connecticut
 - Non-financial tools created by the Connecticut legislature include:
 - licensed environmental professionals (LEPs);
 - voluntary remediation programs;
 - covenants not to sue; and
 - the property transfer act
 - Financial assistance programs include:
 - Urban Sites Remedial Action Program -- funds investigation and remediation of sites;
 - Special Contaminated Property Remediation and Insurance Fund -- provides loans for environmental assessments and demolition activities; and
 - Dry Cleaning Establishment Remediation Fund -- provides grants for cleanup and prevention
 - No exact count of the number of brownfields in Connecticut exists -- based on information from a variety of sources there are at least 600 and probably more than 950 sites
 - The challenge in the next few years is to improve Connecticut's brownfields programs by clarifying procedures and increasing financial resources
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Executive Summary

BROWNFIELDS IN CONNECTICUT

Brownfields are defined by the U. S. Environmental Protection Agency (EPA) as abandoned or underutilized sites with real or perceived environmental problems. In March 1998, the Legislative Program Review and Investigations Committee approved a study of brownfields in Connecticut.

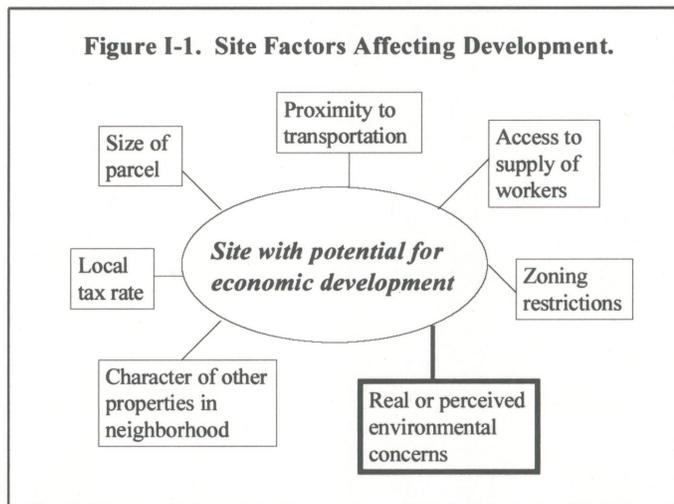
The purpose of the review was to look at how environmental concerns about properties affect economic development efforts and the response the state should take to deal with the issue. The committee looked at the programs and tools currently available to assist in the identification and remediation of environmentally contaminated properties, including the roles of governmental entities and private parties.

Brownfields can exist anywhere, and the fear of unknown problems can be as detrimental to development of a site as heavy contamination. The state has not established a statutory or regulatory definition of brownfields, but the EPA definition is frequently used. The committee believes the flexibility of Connecticut's current approach toward defining brownfields is preferable to imposing a statutory description.

The activities undertaken in connection with and at brownfields vary, depending on the condition of a site and the immediacy of opportunities for redevelopment. Key activities involve the identification of sites, assessment of contamination, and cleanup in accord with state standards. One of the first actions should be a realistic examination of the uses for the site.

The likelihood a site will be used for economic development purposes is shaped by a number of factors. These include its acreage, zoning restrictions, infrastructure concerns, taxes, and the price of the property. The environmental condition of the site also has to be considered. Figure I-1 summarizes the major factors affecting development.

No list of brownfields currently exists in the state. To quantify the problem they collectively represent, the program review committee sought information from several sources, including towns throughout the state. The committee found there are at least 622 and probably more than 942 brownfields in Connecticut. The committee believes determining the specific problems at identified sites should be a key focus of state efforts to deal with brownfields, and state financial assistance in the short-term should focus more heavily on site assessments.



Executive Summary

The Department of Economic and Community Development and the Department of Environmental Protection share responsibility for the state's major programs involving brownfields. The quasi-public Connecticut Development Authority also has a role.

The program review committee found Connecticut already has in place many tools and programs considered important for dealing with brownfields. They include:

- cleanup standards tied to planned re-use;
- clear and timely processing of cleanup plan reviews and approvals;
- liability protections;
- financial assistance for assessments and cleanups;
- tax and other incentives for targeted development; and
- community support for re-use of existing industrial sites.

However, a number of the programs are new, and additional time will be needed to fully assess their success. In the meantime, the committee recommends clarifying statutory provisions and fine-tuning the operating procedures of some specific programs.

The Special Contaminated Property Remediation and Insurance Fund (SCPRIF) provides loans for comprehensive environmental site assessments. The program review committee believes the advisory board that reviews the applications should not lose sight of the intent of the program and should not impose requirements unduly limiting funds to brownfields where the future use of a site has been determined already. The committee recommends program materials and procedures be revised to eliminate such requirements. In addition, operating procedures and eligibility criteria should be specified in regulations.

The Urban Sites Remedial Action Program (USRAP) provides financial and technical assistance for investigating and cleaning up environmental contamination. Selected projects have enhanced the economic well-being of their respective communities by stabilizing neighborhoods and creating jobs. In order to provide resources to aid communities recently deemed eligible for the program and supplement the proposal to increase the identification of specific remediation needs, the committee recommends additional funds for USRAP.

A surcharge on gross receipts from dry cleaning services is available to provide grants to owners and operators of dry cleaning establishments for remediation and prevention of environmental pollution at these businesses. The program review committee finds the rules adopted by the Department of Economic and Community Development have placed limitations on the dry cleaning program that exceed those spelled out by the General Assembly. The committee recommends statutory clarification of the eligibility criteria and level of assistance.

Based on a survey of municipalities, the committee finds knowledge of existing brownfield-related programs is limited. Additional steps should be taken to promote awareness, including preparation and distribution of written program summaries to a wider range of entities.

Executive Summary

RECOMMENDATIONS

1. State financial assistance for brownfields in the short-term should be focused more heavily on site assessments.
2. The Department of Economic and Community Development should fulfill its administrative responsibility and maintain an up-to-date list of Special Contaminated Property Remediation and Insurance Fund Advisory Board members, their appointing authority, and the perspective each member represents. In addition, the commissioner should notify the appropriate appointing authority whenever a vacancy occurs.
3. SCPRIF program materials and procedures should be revised to eliminate requirements that Phase I assessments must already be underway when entities submit a pre-application for a SCPRIF loan and that specific re-use plans must exist for a site.
4. The Department of Economic and Community Development and the SCPRIF Advisory Board shall be required to promulgate regulations for the operation of the Special Contaminated Property Remediation and Insurance Fund established under C.G.S. Sections 22a-133t and 22a-133u. At a minimum, the regulations should specify any eligibility criteria the board is requiring beyond those already statutorily specified as well as the process being used to evaluate projects.
5. An additional \$3 million shall be authorized for the Urban Sites Remedial Action Program.
6. The Department of Economic and Community Development should rewrite the program materials to clarify the differences between the Urban Sites Remedial Action Program and Economic Development Initiative Sites programs. Future presentations of data for the two programs should distinguish between the participants in each.
7. C.G.S. Sec. 12-263m shall be amended to specify limits on the number of years a dry cleaning establishment can receive grants and the circumstances under which an applicant will be ineligible for consideration, including nonpayment of taxes and pending lawsuits.

In addition, the Department of Economic and Community Development shall be required to promulgate regulations for the operation of the dry cleaning remediation program. At a minimum, the regulations should specify:

- limits on the number of years an establishment can receive grants;
- circumstances under which an applicant will be ineligible;
- how ownership is defined and the effect of lease arrangements on participation in the program; and
- the types of project costs allowable under the program.

Executive Summary

8. The Department of Economic and Community Development should prepare an informational mailing for the April 1999 grant cycle to be sent out by the Department of Revenue Services with the quarterly surcharge payment forms.
9. The Department of Economic and Community Development should sponsor a second cycle of grants in the fall of 1999, if the dry cleaning remediation program does not attract at least seven new applicants for the April 1999 grant cycle.
10. The Department of Economic and Community Development shall be required to submit a report on the Dry Cleaning Establishment Remediation Fund to the joint standing committee of the General Assembly having cognizance of matters relating to the environment on February 1, 2000. The report shall indicate the number of applications received and the number and amount of the grants awarded annually since the start of the program. It shall also include a recommendation as to whether the grant program and the gross receipts tax under C.G.S. Sec. 12-263m should continue.
11. The Department of Environmental Protection should complete the planned guidance document for environmental professionals regarding the conduct of site investigations by March 15, 1999.
12. The Department of Economic and Community Development should prepare and distribute written summaries of the major brownfield-related programs, including SCPRIF, USRAP, EARLF, voluntary remediation, and the dry cleaning fund to relevant professional organizations, lending institutions, libraries, and higher education institutions.
13. The reference to "subsection (n)" in C.G.S. Sec. 22a-134e(b) shall be changed to "subsection (p)"; and the reference to "section 22a-133w" in C.G.S. Sec. 22a-134e(p) shall be changed to "section 22a-133y."

BROWNFIELDS

In recent years, growing awareness of environmental issues, paired with concern about liability for cleaning up contaminated property, has increased the attention given to the environmental condition of properties with a potential for redevelopment. A term used increasingly to describe abandoned or underutilized sites with real or perceived environmental problems is "brownfields."

Brownfields can exist anywhere, and the fear of unknown problems can be as detrimental to development of a site as heavy contamination. Although the resolution of environmental concerns cannot ensure a project will go forward, the existence of such concerns can prevent parties from even considering revitalization of a site.

In March 1998, the Legislative Program Review and Investigations Committee approved a study of *Brownfields in Connecticut*. The purpose of the review was to look at how environmental concerns about properties affect economic development efforts and the response the state should take to deal with the issue.

As part of the study, the committee examined the roles of governmental entities and private parties involved in the solution to problems associated with sites labeled as brownfields. Other tasks during the study included clarifying what is meant by the word "brownfields" and determining the programs and tools currently available to assist in the identification and remediation of environmentally contaminated properties.

In September, the program review committee held a public hearing on brownfield-related issues. The committee also sent a survey to all towns in the state to determine the number of brownfields and the level of awareness of existing brownfield programs. Mechanisms used by other states to deal with brownfields were also examined.

The program review committee found Connecticut already has in place many of the key tools and programs considered important for dealing with brownfields. A number of these elements are new, and additional time will be needed to fully assess their success rates. However, many appear to be working as intended. As a result, committee recommendations focus on clarification of statutory provisions and fine-tuning operating procedures for specific programs. The allocation of financial resources for brownfields is also addressed.

Report Format

This report contains four chapters. The first discusses the concept of brownfields. The second describes the roles of various governmental entities and private parties involved with brownfields. The third profiles existing brownfield-related programs and tools. The fourth chapter presents the committee's findings and recommendations. Appendix A presents the results of the survey sent to municipalities.

Agency Response

It is the policy of the Legislative Program Review and Investigations Committee to provide agencies subject to a study with an opportunity to review and comment on the recommendations prior to publication of the final report. Responses from the Department of Economic and Community Development (DECD) and the Department of Environmental Protection (DEP) are contained in Appendix B.

Concept of Brownfields

Scientific knowledge about the effects of chemicals increased considerably during the twentieth century. This information has enabled society to take steps to protect the environment, including the adoption of standards for handling and disposing of a variety of materials.

Property can become environmentally contaminated either willfully or unintentionally by a release of materials in a manner or to a degree that violates existing standards. The release may occur on-site or result from an off-site incident. In some cases, new information about the interaction of elements may mean a practice that was previously allowed at a site is no longer acceptable.

At some point, the residue from such releases must be evaluated to determine what, if any, cleanup is required. The time frame for making that assessment and performing any required remedial work varies, depending on the type and amount of material discharged and the use made of the property in question.

For example, a site where a large quantity of highly toxic material spilled near a source of drinking water would be dealt with rapidly. On the other hand, a site where a former business may or may not have used a material subsequently found to be of environmental concern might not be reviewed until a change in land usage or ownership is anticipated. Similarly, a site where housing is to be built must meet a higher environmental standard than a parcel where a factory is being built.

In the 1980s and 1990s, regions that previously enjoyed a large industrialized base of employment sought to create new economic opportunities. During this same period, a growing awareness of environmental concerns among lenders, developers, and potential property owners created a reticence on the part of some to become involved with land known or perceived to have environmental problems. The result was another obstacle for those interested in redevelopment.

About the same time, efforts were increasing to keep properties never exposed to environmental pollution -- sites known as "greenfields" -- from being developed for commercial purposes. As an alternative, redevelopment of properties that had already been used for commercial purposes was encouraged.

Owners of the sites with questionable environmental histories, including lenders and municipalities that inherited such properties due to abandonment or foreclosure, began to search for remedies. Seeking a shorthand reference for the problem, the term *brownfields* came into usage.

Definition

Generally the word *brownfields* is used to refer to abandoned or underutilized sites with known or perceived environmental contamination. However, written materials and conversations with people who are familiar with the issue indicate no single definition is currently in use.

Some definitions of the word are expansive, while others are quite restrictive. In practice, the meaning varies, depending on the speaker and the context of the reference. The U.S. Environmental Protection Agency (EPA) defines brownfields as:

abandoned, idled, or underused industrial and commercial properties where expansion or redevelopment is complicated by real or perceived environmental contamination.

The different elements of this description are important to note.

First, the definition places no limits on the geographical location of the site. Some assistance programs that help clean up environmental contamination limit eligibility to properties located in industrialized areas. Other programs provide aid to sites located in communities that meet specific criteria, such as high unemployment. People sometimes think of brownfields solely as an urban problem. This is not true. The history of industrialization in regions of the country such as the northeast means buildings previously used as factories might also be located in areas that are now suburban or rural. Although eligibility criteria may limit participation in a specific program, a brownfield can exist in any town.

Second, the EPA definition specifies the properties in question are not being used to their full potential. In some cases, this would mean an expansion of an existing enterprise is possible. In other cases, the use of the site, the ownership, or both would change. Properties with ongoing, fully operational businesses on a site may have environmental problems that have to be addressed. However, unless they have the potential to be more economically productive, they would not be labeled as brownfields.

Third, the reference to abandoned sites raises the issue of owner responsibility. A private lender or municipality may control a site temporarily because the owner has disappeared or defaulted on loans or taxes. Concern about how long it will take and what additional resources may be required to recoup their financial interest in a property with environmental problems may make them cautious about foreclosing on such a site.

Redevelopment can also be hindered in cases where the owner is known and still involved with the property. Eligibility for some environmental assistance programs is limited to parties that were not involved in creating the contamination. Determining responsibility for past events at a site can take time. And, when the responsible party is the owner, he or she may not have the financial ability to undertake the cleanup.

Lastly, the EPA definition acknowledges the environmental concerns related to a brownfield property may be real or perceived. In the case of known contamination, the cost and amount of time required to remediate a specific site will affect development interest in the property. However, fear of unknown problems at a site can be even more detrimental. A potential developer, faced with unknown liability and at risk for a high payout in the future, may lose interest in a site. Or, an owner, concerned that knowledge about the scope of contamination will bring liability and expenses, will avoid having the environmental condition of the property assessed.

The state of Connecticut has not established a statutory or regulatory definition of brownfields. Staff from the Department of Economic and Community Development uses the EPA definition of brownfields, while the Connecticut Development Authority (CDA) considers a site or building that is not used or is underutilized because of pollution problems to be a brownfield.

Department of Environmental Protection staff indicated they do not generally use the term brownfields in dealing with contaminated sites. The department is interested in sites being cleaned up, but the reasons vary from public health concerns to economic development efforts. If a site being designated as a brownfield makes other parties interested in cleaning it up, then the department is interested in working with them to achieve that goal.

The flexibility of Connecticut's current approach toward defining brownfields has been preferable to a statutorily specified description. Several of the state assistance programs targeted at brownfields focus on particular types of environmental problems (e.g., dry cleaning establishments) or categories of towns (e.g., distressed municipalities). At the same time, many of the environmentally related tools and programs available to deal with brownfield sites are available to other types of properties as well.

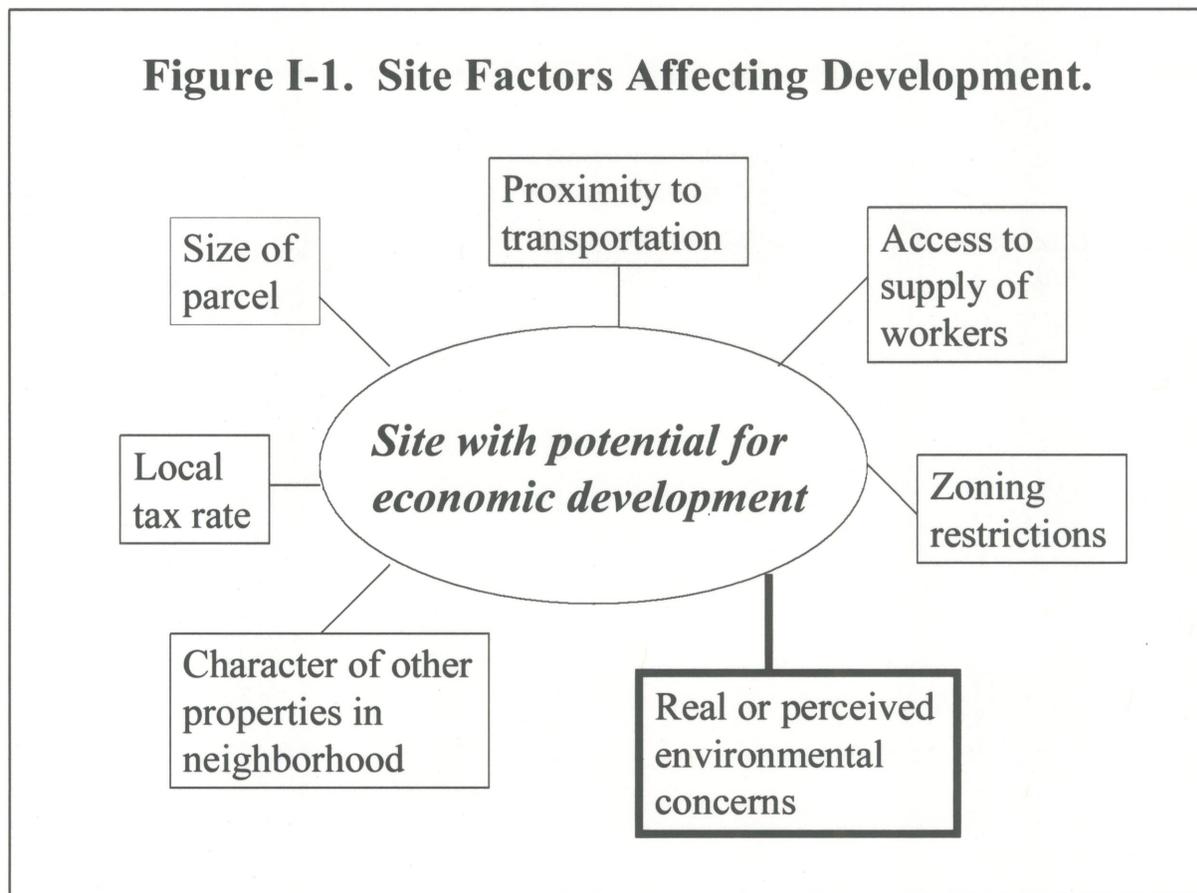
Under certain programs, the terminology connected with handling brownfield sites can also have different meanings. Words such as "identification," "investigation," and "assessment" have general dictionary definitions. The words also may have statutorily defined meanings, describing actions that must occur, for purposes of compliance with certain state programs.

In order to discuss the issues surrounding brownfields during the committee's study, it was helpful to have an operational definition of the term. Rather than create a new definition, the study used the EPA definition.

Development Factors

As the supply of undeveloped land diminishes, underused sites attract attention from people seeking to start or expand a business. The likelihood a particular piece of property will be used for economic development purposes is shaped by a number of factors. These include the acreage of the property, the dimensions and layout of any existing structures, zoning restrictions, the accessibility of transportation and other infrastructure concerns such as sewers, the characteristics of the area

surrounding the property, local property taxes, and the purchase or lease price. Figure I-1 summarizes the major factors affecting development.



Depending on the potential use of a site, some factors may be more important than others. Properties being redeveloped to expand or create new manufacturing facilities require a pool of workers, while sites for distribution warehouses may need access to rail lines or airports. If the intended use is residential, proximity to schools may be more desirable.

In all cases, the environmental condition of the property must be considered. Growing awareness of environmental issues, paired with concern about liability for cleanup, has increased the attention given to this characteristic of sites with the potential for redevelopment. The most common contamination at sites labeled brownfields involves chemicals adversely affecting soil or groundwater. In addition, there may be issues such as asbestos and lead paint within structures located on a site.

Since a key characteristic of a brownfield is the potential for increased economic use, it is important to examine that factor realistically, weighing environmental problems against other

features. For example, even if a site is environmentally clean, a poor geographic location could remain a barrier to new development.

It is also important to recognize people may mean different things when they speak of "economic development." Typically, this phrase has meant jobs. It also may be used to encompass projects that enhance quality of life. This perspective expands the range of uses for brownfields to include options such as parks and housing (although the latter requires meeting a higher standard of remediation). In general though, most brownfield efforts continue to focus on industrial and commercial development projects.

While people in a community with environmentally contaminated property might prefer all such sites be cleaned up, that is not possible when financial resources are limited. Indeed, another factor affecting the assessment, remediation, and redevelopment of brownfields is the overall condition of the economy.

The price someone is willing to pay for a site is based on its cost relative to the return the owner expects to receive from whatever activity is undertaken on the property. In the case of a brownfield, the cost of the site includes the expenses associated with the remediation of the property.

In many cases, the cost of remediating a brownfield will be greater than the cost of adding infrastructure (e.g., roads, sewers, utilities, etc.) to a comparable clean site (a "greenfield"). Although the actual costs for each can vary widely, the relative cost of the brownfield is often assumed to be higher than the greenfield.

When the economy is booming this differential is less important than when economic activity is low. In good economic times, estimated rates of return on land investment can be positive even if remediation costs are high. When the economy slows, overall competition for land declines. As a result, remediation costs can push down estimated returns on a brownfield to a negative level, causing interest in remediating brownfields to diminish.

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Roles and Responsibilities

The activities undertaken in connection with and at brownfields will vary, depending on the condition of the sites and the immediacy of the opportunities for redevelopment. In some cases, after a site is identified as a brownfield, little further action will occur. In other cases, the brownfield label will represent the start of a process with multiple phases.

One of the first actions related to a site should be a realistic examination from an economic development perspective. The challenge is to weigh the environmental problems of the property against its other features. Although a primary characteristic of a brownfield is the potential for increased economic use, every site has a different value. Even if a site is environmentally clean, a poor geographic location, for example, will remain a barrier to development.

Once a site has been identified as a brownfield before it can be put to a new use, one or more activities have to occur. These include:

- *clarification of responsibility* -- based on legal considerations, determine the party (current owner or someone else) responsible for undertaking cleanup at the site;
- *assessment* -- using government standards, quantify the nature and the degree of contamination on the site;
- *preparation of a remediation plan* -- if the assessment indicates some cleanup is necessary, prepare a plan specifying the methods to be used, the time required, and the estimated cost;
- *cleanup* -- using the remediation plan, clean up the site to meet the government standards; and
- *post-remediation monitoring* -- if necessary, install a system to test the site over a period of time to confirm the cleanup was successful.

The assessment phase is crucial since the results will be used to determine what additional steps have to be taken at a site. For properties deemed brownfields because of perceived environmental problems, if no pollution is found, no other activities will be necessary. For sites with problems, the planning and the cleanup phases will become very important.

Another issue concerns when to undertake the various steps in the process. Sometimes activities are initiated in anticipation of future interest in a site. In other cases, those controlling a site might wait for declared interest. Moving forward requires access to financial resources to pay for the assessment and cleanup.

Waiting carries the risk that work will not be completed in time to meet the needs of a potential buyer or developer.

Both public and private entities are involved in activities connected with brownfields. State assistance is available to help with the identification, assessment, and remediation of brownfields. On the local level, towns take varied approaches toward dealing with brownfields, while private sector involvement can cover a wide range of activities. Federal aid includes technical and financial assistance. Table II-1 summarizes the roles of the major participants involved with brownfields in Connecticut, with more detailed descriptions of their activities presented in the text below.

TABLE II-1. Roles of Major Participants In Brownfields Efforts In Connecticut.	
<i>Entity</i>	<i>Roles And Responsibilities</i>
Department of Economic & Community Development	<ul style="list-style-type: none"> • coordinates programs that provide financial assistance for identifying and resolving problems at brownfields, with the goal of increasing economic activity (includes SCPRIF, USRAP, EDI, and dry cleaning programs)
Department of Environmental Protection	<ul style="list-style-type: none"> • promulgates regulations setting standards for remediation of polluted soil and water, including allowable levels of specified substances and formulas for calculating concentrations -- primary concern re brownfields is effect pollution at such sites has on groundwater • works in partnership with DECD on SCPRIF, USRAP, and EDI programs
Connecticut Development Authority	<ul style="list-style-type: none"> • works with DEP to stimulate, encourage, and carry out the remediation, development, and financing of contaminated property • provides financial assistance to municipalities, businesses, and others
U. S. Environmental Protection Agency	<ul style="list-style-type: none"> • lead federal entity for brownfields • offers an electronic information service to parties interested in brownfields • provides grants for pilot projects to identify and remediate brownfields (13 projects in Connecticut)
Municipalities	<ul style="list-style-type: none"> • may own or help local taxpayers find more productive uses for brownfields • can issue bonds, award federal grant funds, or offer special tax treatments to properties with pollution problems being cleaned up (can abate future or forgive delinquent property taxes) • may ask Conn. Development Authority to issue tax incremental financing bonds for projects in redevelopment areas, which may include brownfields
Private parties (e.g., property owners, bankers, developers, LEPs, etc.)	<ul style="list-style-type: none"> • can have direct interest in a brownfield or provide services needed to bring about re-use of a brownfield • may provide financial or technical assistance, carry out cleanup tasks, or act as a catalyst for redevelopment

State Agencies

The Department of Economic and Community Development and the Department of Environmental Protection share responsibility for the state's major programs involving brownfields. The quasi-public Connecticut Development Authority also has a role. State efforts focus on balancing the economic and environmental components of the issue. Financial and staff resources are available to assist with the identification, assessment, and remediation of brownfields.

Department of Economic and Community Development. The Department of Economic and Community Development helps individuals and businesses with plans to expand economic activity in the state identify sites that will meet their needs. Redevelopment of brownfields may result, but it is not the primary focus of the department's efforts.

DECD staff indicated they try to pull together the best package of elements for each development project they work on. Rather than starting with the parameters of a specific program and searching for projects that could be helped by it, they determine what resources are required for a specific project and try to meet those needs using a variety of programs.

As part of this effort, DECD staff meets with developers, corporate officials, municipal leaders and staff, property owners, and financial backers among others. DECD staff also may serve as brokers between parties interested in development and the state agencies whose involvement is necessary for a project to move forward successfully. DECD staff works particularly closely with the Department of Environmental Protection.

DECD staff in the Infrastructure and Real Estate Division has primary responsibility for coordinating several statutory financial assistance programs targeted at brownfields. These are the Dry Cleaning Establishment Remediation Fund, the Special Contaminated Property Remediation and Insurance Fund (SCPRIF), and the Urban Sites Remedial Action Program (USRAP). In addition, the department operates the Economic Development Initiative Sites (EDI) program in conjunction with the urban sites program. DECD staff provides technical assistance to businesses that have private funding available but need help maneuvering through the state regulatory process. (These programs are described in greater detail in Chapter Three.)

Four departmental employees spend time on one or more of these programs. None spends all of his or her time on brownfield activities. Table II-2 lists the estimated full-time equivalent (FTE) staff assigned to each brownfield program since state FY 94.

	<i>FY 94</i>	<i>FY 95</i>	<i>FY 96</i>	<i>FY 97</i>	<i>FY 98</i>
USRAP (includes EDI)	1.90	1.90	1.50	0.65	0.45
SCPRIF	--	--	--	0.50	0.50
Dry Cleaning	--	1.05	0.71	0.31	0.31
Mgt. Oversight	0.20	0.20	0.20	0.20	0.20
Other urban programs	0.30	0.30	0.30	0.40	0.40
Source: Department of Economic and Community Development.					

Connecticut Development Authority. In the past, the relationship of the Connecticut Development Authority to brownfields was indirect. CDA has provided assistance to many projects in recent years, some of which may have involved brownfields. However, those sites were not targeted for funding because of that label.

As a result of Public Act 98-253, CDA's involvement with brownfield issues expanded on October 1, 1998. Under that act, CDA is allowed to establish quasi-public subsidiaries to work in coordination with DEP "to stimulate, encourage and carry out the remediation, development and financing of contaminated property" in Connecticut. The authority can provide financial, developmental, and environmental expertise to businesses, municipalities, and other parties.

At least half of the members of the board of directors of such a subsidiary must be members, designees, officers, or employees of CDA. At the end of 1998, the authority was in the process of creating the new entity that will oversee the brownfield-related activities of the authority. In anticipation of its increased role, CDA is planning to hire an additional staff person and compile a preliminary inventory of brownfield sites in the state.

Department of Environmental Protection. DEP becomes involved with brownfields in a variety of ways. Indeed, many of the tools that will be described in Chapter Three come under the jurisdiction of DEP. However, like the other agencies already mentioned, some of the same tools may be used by DEP staff for sites that are not brownfields.

The primary consideration of DEP relative to brownfields is the effect that any pollution at such sites will have on the groundwater in the area. The department focuses on identification and quantification of problems at such sites with the goal of reducing contamination.

In its dealings with brownfields, DEP tries to balance the relationship between economic development and environmental priorities. For many years, DEP staff was only involved with remediation efforts in cases where the department had issued an order requiring cleanup or the property was about to be transferred. In recent years, statutory support for voluntary cleanup efforts and the availability of supplemental resources such as licensed environmental professionals have allowed the department to expand the breadth of the assistance it provides.

Statutorily mandated regulations setting standards for the remediation of polluted soil and water at hazardous waste disposal sites and other properties subject to a spill have also been adopted. The regulations include criteria for allowable levels of specified substances and formulas for calculating those concentrations.

DEP staff from the Permitting, Enforcement and Remediation Division of the Bureau of Water Management work in partnership with DECD staff on many brownfield-related activities. The tasks performed include administrative duties, site investigations, supervision of cleanup activities, and documentation reviews.

For the past six years, DEP has had between seven and eight full-time equivalent staff involved with the USRAP program, including the EDI component. The equivalent of one-quarter person currently works on the SCPRIF program. Only a small amount of staff time is spent directly on activities related to the dry cleaning program, but agency staff regularly work with dry cleaning establishments on other environmental issues.

Another seven FTE staff are directly involved with implementation of the property transfer act, which is described in Chapter Three. There are also two FTE staff involved in discovery and assessment activities related to state remediation projects.

Local Agencies

Many local and regional governmental bodies in Connecticut are active participants in efforts to deal with brownfields. Some became involved as owners of sites; others try to help local taxpayers find more productive uses for their properties. In the past four years, more than a dozen towns have received federal grants for pilot projects to identify and remediate brownfields.

Preparation of a brownfield inventory is a key task individual towns can perform. Besides identifying properties with environmental problems, the lists should include information about other characteristics of the sites that will allow interested parties to measure the development potential of the properties. In many of the state's larger cities, economic development offices maintain lists of brownfields to use when working with individuals or businesses that might be in a position to bring increased economic activity to the area.

The need to recoup value for unpaid taxes in many cases may lead a municipality or other regional taxing authority to seek control over a site. Obtaining control over a site, whether to use it for the town's own purposes or to sell it to return it to the tax base, forces a municipality to deal directly with assessment and remediation activities.

Depending on other characteristics of a brownfield, a town may offer the owner or developer the same package of incentives it would provide to other development projects. The state's enterprise zone program is an example of an economic development tool geared to a wider audience than brownfields, but which can be used to aid brownfields. Under that program, tax incentives are available to eligible manufacturing businesses locating in certain geographic areas. Likewise, municipalities can ask CDA to issue tax incremental financing (TIF) bonds for specified projects in redevelopment areas. These projects could include brownfields.

Under state law, towns can offer special tax treatments to properties with pollution problems being cleaned up. A municipality can abate property taxes on an environmentally impacted site for up to seven years while it is being redeveloped and remediated. Although the process, eligibility, and notification provisions changed on October 1, 1998, abatements continue to be allowed. As of that date, for certain properties, towns are also allowed to forgive delinquent property taxes for the benefit of prospective purchasers who undertake remediation-related activities.

Towns have access to a variety of other sources to provide financial assistance to brownfields. These include issuing local bonds and awarding community development block grants or federal transportation funds. In some cases, recipients must reimburse the town for this money.

Federal Government

On the federal level, the U. S. Environmental Protection Agency is the lead department for brownfields. It has designated teams of employees in each of its regional offices to deal with brownfield-related activities. It also offers an electronic information service to parties interested in the topic of brownfields and maintains an extensive brownfields web page on the Internet.

Since 1994, EPA has been seeking to identify solutions to the problems of brownfields by funding pilot projects that use a variety of approaches to handle different aspects of the issue. It has provided financial support to more than 120 cities and towns throughout the country, including more than a dozen in Connecticut. Indeed, one of the first projects ever funded was in Bridgeport.

In early 1997, the federal government announced a *Brownfields National Partnership* aimed at bringing together 15 federal agencies in a coordinated approach to brownfields. This effort includes financial support for 16 "Brownfields Showcase Communities," one of which is Stamford. Table II-3 lists the towns in Connecticut that have received federal brownfield assistance. It also includes information about the nature of each project and the amount of each award.

Private Parties

Individuals and businesses from the private sector play important roles in brownfield-related efforts. They may have a direct interest in a brownfield site, or they may provide services needed to bring about the re-use of a brownfield. Some provide financial assistance, others provide technical assistance, others carry out cleanup tasks, and still others are the catalysts for redevelopment. Among the most commonly involved participants are:

- property owners;
- developers;
- banking and other private financiers;
- attorneys;
- environmental engineers and licensed environmental professionals;
- insurance providers; and
- consultants who provide advice to municipalities and developers.

The amount of information available about brownfields continues to increase. A growing number of associations and individual businesses have created web sites devoted to the issue. In addition, a number of local and national groups interested in general environmental issues have begun paying more attention to brownfields as an area of concern.

TABLE II-3. Federal Brownfields Awards Received by Connecticut Towns.

<i>Town</i>	<i>Date</i>	<i>Purpose of Award</i>	<i>Award</i>
Bridgeport	Sept. 1994	prototype for other cities to redevelop brownfields -- activities include establishing inventory of 205 sites ranked for development potential, preparing site assessments and redevelopment strategies for six sites, and convening a summit on environmental job training and education	\$200,000
Danbury	May 1997	EPA site assessment of one-acre site foreclosed on by the city	*
Danbury	July 1997	conduct environmental assessment of 0.5 acre site, determine feasibility of in-situ treatment, and prepare cleanup plan with costs	\$45,000
Griswold	May 1998	see Norwich	
Hartford	April 1997	evaluate and prioritize sites for redevelopment, conduct assessments at three sites, develop model for resident participation in brownfield redevelopment planning, and educate community about barriers to redevelopment	\$200,000
Manchester	May 1997	EPA site assessment of 1.6-acre site	*
Meriden	May 1997	EPA site assessment of seven-acre property	*
Middletown	July 1998	perform environmental assessments of waterfront properties, complete feasibility studies and cleanup cost estimates for at least two sites, and develop outreach program to inform and solicit input from communities affected by brownfields	\$200,000
New Britain	May 1998	perform environmental assessments of six sites, develop cleanup strategies and cost estimates for at least three sites, create community Brownfields Awareness & Education Program, and construct master development plan and catalogue of funds/resources for brownfields	\$200,000
New Haven	Sept. 1996	conduct environmental assessments of two sites, continue identifying and prioritizing brownfields in the city for site assessments and remediation, and examine property transfer issues	\$120,000
New London	May 1998	EPA site assessment of former rail yard	\$45,000 (est.)
Norwich	May 1998	cooperative efforts of towns/property owners/lenders/developers to conduct assessments of five sites and outline strategies/costs for cleanup and redevelopment	\$200,000
Stamford	July 1998	as part of the city's redevelopment plan for its harbor area, leverage public money to stimulate private demand and conduct environmental assessments on brownfield properties	\$200,000
Naugatuck Valley Regional Planning Authority	Sept. 1996	establish brownfield site selection criteria, identify priority sites for redevelopment, conduct environmental assessments, and develop a remediation/development strategy for two or three sites	\$90,000
* collective value of assessments performed for the three cities estimated at \$200,000			
Source: U.S. Environmental Protection Agency Quick Reference Fact Sheets & Press Release #97-5-6.			

State Programs and Tools

The availability of money to clean up and redevelop brownfields is always an issue. Two other factors that may also be obstacles are concerns about long-term liability for contamination found at a site and the amount of time required to obtain governmental approval of a cleanup effort.

In recent years, state legislatures throughout the country have created a number of tools and programs to help with these problems. The mechanisms adopted in Connecticut can be divided into those involving nonfinancial and financial assistance. The significant programs in each category are described below.

Nonfinancial

In 1991, the Connecticut legislature indicated it is the state's policy to encourage pollution prevention in order to reduce risks to the environment and the health of individuals. Prevention activities include changes within a plant that reduce, avoid, or eliminate the generation of hazardous by-products. In 1998, P.A. 98-253 expanded this definition to include encouragement of remediation activities.

In the mid-90s, several new tools were created to assist those who were responsible for properties with environmental problems. Among the most important to the brownfields issue were the Licensed Environmental Professional (LEP), two voluntary remediation programs, and the Covenant Not To Sue (CNTS) system. In addition, the property transfer law, originally adopted in 1985, was modified to complement these new tools. The major nonfinancial programs are summarized in Table III-1. More detailed descriptions of each program are also presented below.

Licensed environmental professionals. One of the problems threatening to delay efforts to remediate properties in Connecticut was the ability of DEP to respond to requests for technical assistance and reviews in a timely manner. In 1995, the legislature established a new statutorily recognized profession -- the licensed environmental professional -- to provide an alternative mechanism to handle some of these tasks.

LEPs must be knowledgeable in activities associated with the investigation and remediation of pollution and its sources. They also must be able to render professional services in those areas. They offer the public an alternative way of obtaining assistance. As implemented under several of the brownfield-related programs, LEPs allow DEP to focus its efforts on situations that involve a higher degree of contamination, while ensuring properties continue to be investigated and remediated in accord with specified standards.

TABLE III-1. Summary of Major Nonfinancial State Tools.	
<i>Tool</i>	<i>Key Provisions</i>
Licensed Environmental Professional	<ul style="list-style-type: none"> allows approved non-DEP personnel to render services associated with investigation/remediation of pollution and its sources while ensuring sites continue to be investigated/remediated in accord with DEP standards
Covenant Not To Sue	<ul style="list-style-type: none"> party seeking this protection must undertake certain remediation-related steps and provide DEP with sufficient information to ensure existing cleanup standards were met
Voluntary Remediation Programs	<ul style="list-style-type: none"> available for sites with owners or prospective purchasers willing to clean up the property clarifies steps to follow to ensure cleanup meets state standards (completing process makes property transferable to another party without DEP review at time of transfer) allows LEPs to perform tasks in lieu of DEP staff, and minimizes need for DEP to review/approve interim actions taken by LEPs
Property Transfer Act	<ul style="list-style-type: none"> clarifies responsibility for possible contamination at site to ensure when ownership is transferred, accountability is not lost specifies conditions under which property where hazardous waste was present can be transferred -- form must be filed with DEP re status
Flexible Standards	<ul style="list-style-type: none"> establishes maximum exposure levels for certain substances based on the purpose a property is being used for
Environmental Use Restrictions	<ul style="list-style-type: none"> mechanism to minimize risk of human exposure to pollutants and hazards by limiting uses of properties with environmental problems

Licenseses pay an annual fee of \$225. In order to become an LEP, an individual must meet specific criteria and pass an exam. In order to qualify for the exam, an applicant must have:

- at least eight years experience in the investigation and remediation of releases of hazardous waste or petroleum products into soil or groundwater, including at least four years in responsible charge of such work; and
- a bachelor's or advanced degree in a related science or engineering field, or a professional engineer's license issued under Chapter 391 of the statutes; or
- at least 14 years experience in the investigation and remediation of releases of hazardous waste or petroleum products into soil or groundwater, including at least seven years in responsible charge of such work.

The exam, which can be written or a combination of written and oral questions, is prescribed by the State Board of Examiners of Environmental Professionals and approved by commissioner

of environmental protection. The exam tests knowledge of physical and environmental sciences applicable to investigating a polluted site and remediating it. There is a \$125 exam fee.¹

The state board of examiners has 11 members appointed by the governor. The chairperson is the commissioner of environmental protection or his designee. The other members are:

- six licensed environmental professionals, including at least two having hydrogeology expertise and two who are licensed professional engineers;
- two active members of organizations that promote protection of the environment;
- one active member of an organization that promotes business; and
- one employee of a lending institution.

Voluntary remediation programs. Although some brownfield problems are the result of owners abandoning their property, in many cases owners are known. In the past, even when they were willing to clean up a site, they were hindered by questions about what level of activity would be sufficient. This uncertainty reduced the chances an owner would proceed with cleaning up a site.

In the mid-1990s, two voluntary remediation programs were established to clarify what steps owners had to follow to ensure their cleanup would meet state standards. The program most commonly used is controlled by C.G.S. Sec. 22a-133x. It is summarized in Figure III-1.

As currently structured, eligibility for that program is limited. The parties include: municipalities; owners of establishments; owners of property on the state's inventory of hazardous waste disposal sites on October 1, 1995; and owners of contaminated property located in an area with a groundwater classification of GA or GAA.

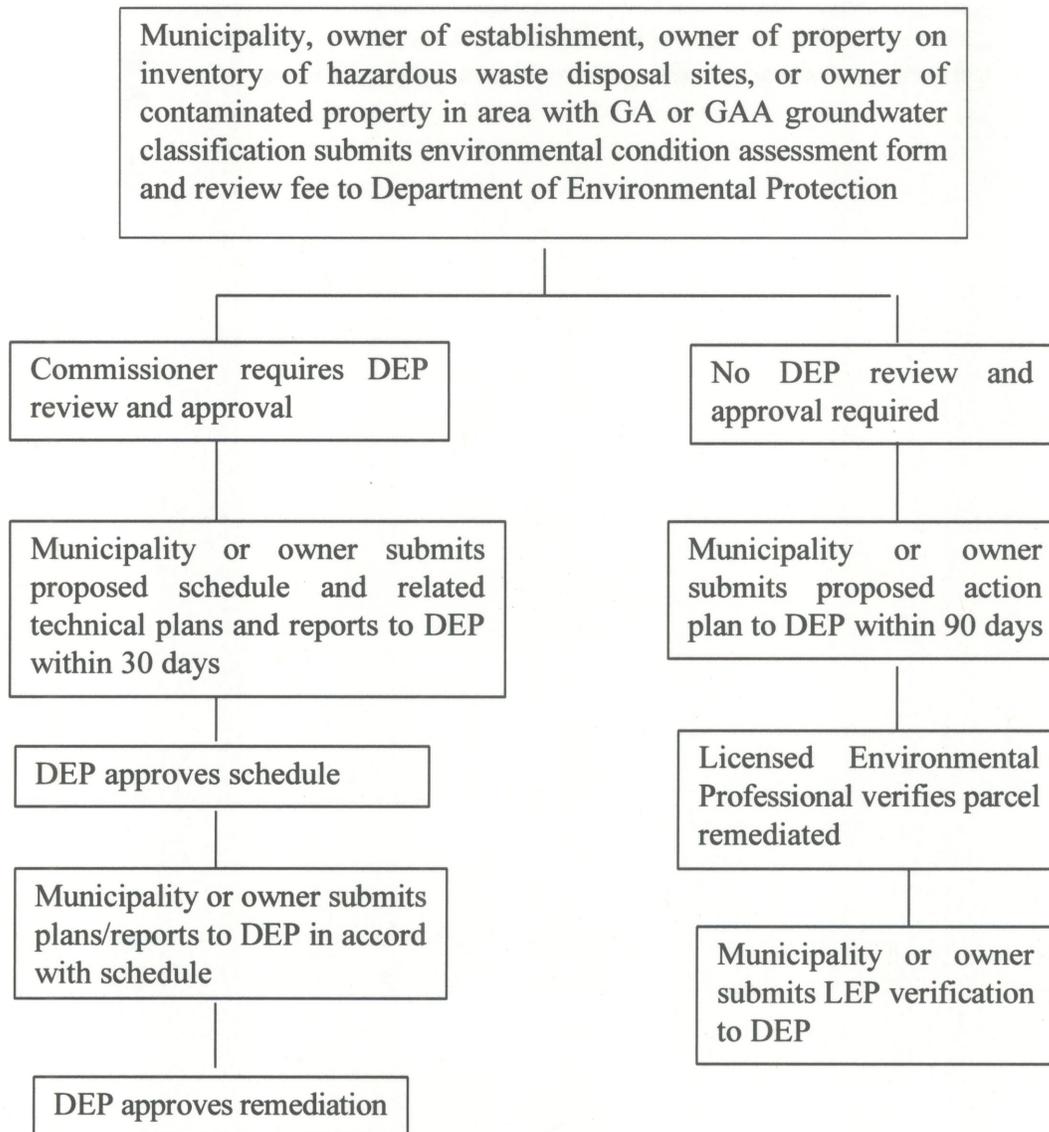
Cleanup efforts are initiated by submitting an environmental condition assessment form (ECAF) and a review fee of \$2,000 to the commissioner of environmental protection. The commissioner must notify them within 30 days whether or not review and approval of any remedial action will be required.

If no review is necessary, within 90 days the owner submits a statement of proposed actions for investigating and remediating the parcel and a schedule of implementation. Related technical plans and reports may be required, and they must be provided if a written request for such information is received. Upon verification by an LEP that the parcel has been remediated, the owner submits a copy of that verification to DEP.

If a review is required, within 30 days, the owner submits a proposed schedule for investigating and remediating the parcel and related technical plans and reports. Upon approval of

¹ Prior to the first exam, individuals who met the eight years of experience and a college degree or engineer's license criteria and who paid a \$150 registration fee could apply to DEP to be placed on a list of environmental professionals. Those on the list could perform the functions of an LEP until the board published the first roster of LEPs.

Figure III-1. Voluntary Remediation (under C.G.S. Sec. 22a-133x)



Source: LPR&IC

the schedule by DEP, technical plans and reports are submitted for review and approval. Modifications are allowed, if approved by DEP. At any time, DEP can discontinue formal review and approval, if the commissioner determines doing so is appropriate.

This program can be used by property owners to clean up their site before they sell it. For those subject to the state's property transfer act, which is described below, completion of this process makes them eligible to transfer the property to another party without the need for DEP review at the time of the transfer.

The other voluntary remediation program is controlled by C.G.S. Sec. 22a-133y. Available to sites with less severe environmental problems, this program simplifies the process outlined in Figure III-1. It allows LEPs to perform a number of tasks in lieu of DEP staff, and it minimizes the need for DEP to review and approve interim actions taken by LEPs. Specifically, LEPs can:

- conduct investigations, including sampling, to confirm the presence or absence of a spill on or at a parcel of property (Phase II environmental site assessments);
- conduct investigations to ascertain the extent of a spill and make estimates of the cost of remediating the property (Phase III investigations);
- prepare written plans on the feasibility of various alternative remediation strategies and assess the cost of those strategies (Phase III remedial action plans);
- supervise remediation;
- submit final remedial action reports to the DEP commissioner in accord with remediation standards for properties meeting specified criteria; and
- if employed by a municipality, enter property in the town to perform an environmental site assessment or investigation, when the owner is unknown, the property is encumbered by a tax lien, or a notice of eminent domain has been filed.

LEPs are required to act with reasonable care in the performance of their services under this program, and they are forbidden from making their fee contingent on certain outcomes. Failure to comply with either of those provisions can result in a civil penalty of up to \$25,000.

Property transfer act. In an effort to clarify responsibility for pollution or contamination that may have occurred at a site, the legislature developed a process to ensure that even when ownership is transferred, accountability is not lost. The Connecticut Transfer of Hazardous Waste Establishment Act (also known as the property transfer act) specifies the conditions under which an owner can transfer real property where hazardous waste was present.

The law requires parties that transfer properties where hazardous waste was generated, recycled, reclaimed, stored, or treated or certain types of processes were conducted to file one of four forms with DEP regarding the environmental status of the site. The forms cover situations ranging from sites where no pollution has occurred to those that need to be cleaned up to those already remediated. The fees for filing these forms are specified in statute, with the amounts based on the type of form and the date of filing. Table III-2 indicates the purpose and fee for each form.

<i>Form</i>	<i>Purpose</i>	<i>Fee</i>
I	declaration no discharge, spillage, uncontrolled loss, seepage, or filtration of hazardous waste occurred at parcel -- based on investigation in accord with prevailing standards/guidelines	\$200
II	declaration any discharge/etc. has been remediated in accord with existing standards and approved by commissioner of environmental protection or verified by LEP <u>or</u> commissioner or LEP has verified in writing no remediation necessary	varies with cost of remediation; ranges from \$2,000-\$23,000
III	certification discharge/etc. occurred or environmental conditions are unknown, and person signing certificate agrees to investigate in accord with prevailing standards and remediate to standards	see Form II
IV	certification, with written determination by commissioner or LEP that discharge/etc. occurred, all actions to remediate parcel have been taken except post-remediation monitoring, and person signing certificate agrees to conduct monitoring, and if further investigation or remediation is necessary, to take further action to meet standards	see Form II

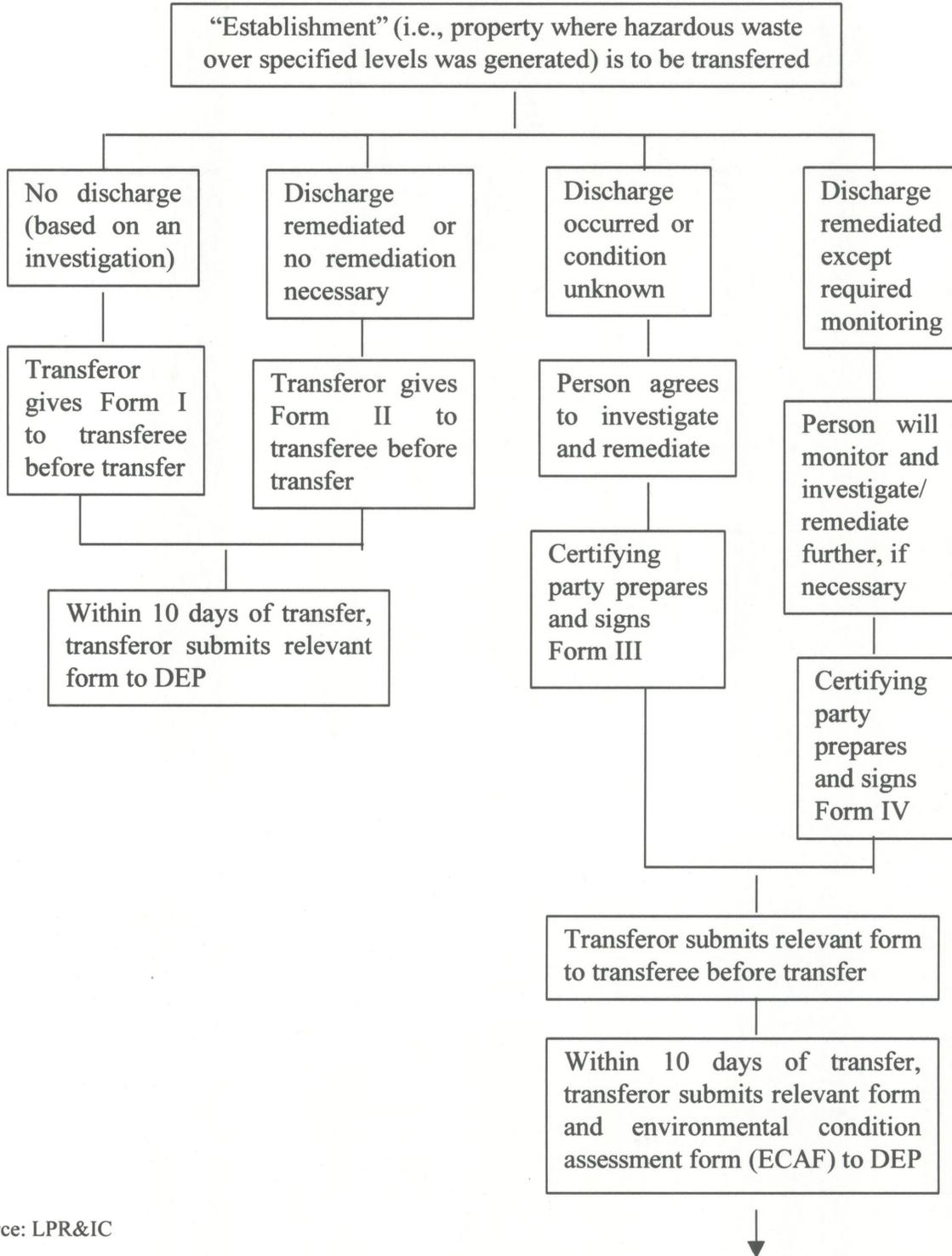
Before filing one of these forms, a site assessment to determine the condition of the property must be performed. The degree of review required will depend on what is found at the site. There are three commonly referenced levels or phases of investigation, which may also be performed for properties not being transferred.

A Phase I investigation includes gathering historical, published, and regulatory information about the site and a walk-around survey of the property. If this activity suggests a discharge may have occurred, then a Phase II investigation should be initiated. That investigation involves on-site environmental testing and laboratory analysis, guided by the information obtained during Phase I. A Phase III investigation is undertaken to quantify the degree, extent, and rate of migration of any on-site releases and evaluate their potential impact on human health and the environment. This phase may require extensive field activity, including site sampling.

Depending on the level of contamination found through the investigatory process, the party seeking to transfer the property may be required to undertake remedial action. Alternatively, another party may agree to assume responsibility for cleaning up the site. Based on these decisions, the appropriate form is prepared. The transferee receives a copy of the form prior to the transfer; DEP must receive a copy within 10 days of the transfer.

Figure III-2 outlines the major steps in the property transfer process. If a Form III or Form IV has to be submitted, the follow-up process may involve a number of additional steps. In cases where remediation work still has to be done, it also can involve a lengthy period of time.

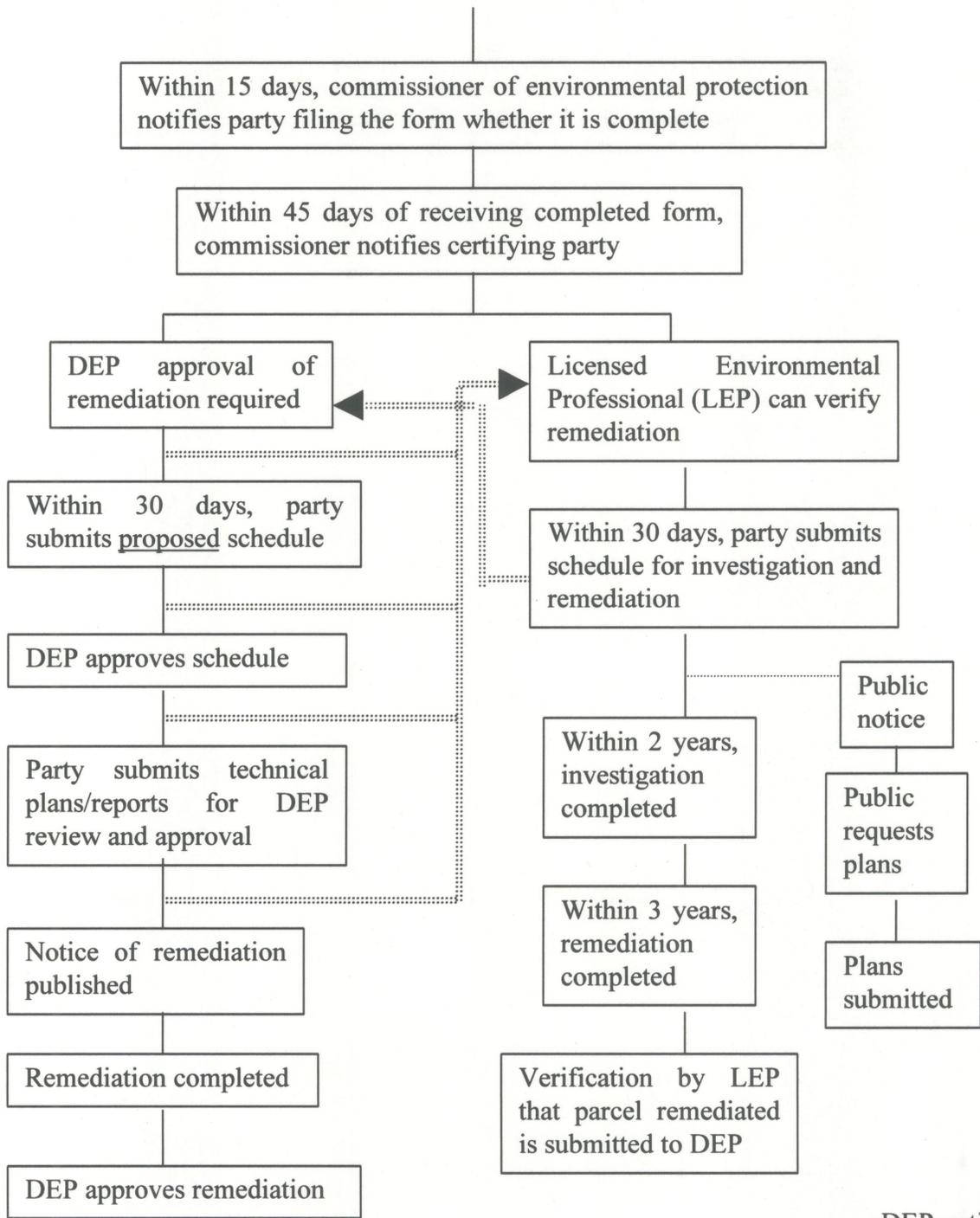
**Figure III-2. Summary of Property Transfer Act Process
(C.G.S. Secs. 22a-134 through 22a-134e)**



Source: LPR&IC

Figure III-2. Property Transfer Act Process (Continued)

Within 10 days of property transfer requiring Form III or IV, transferor submits relevant form and ECAF to DEP



..... DEP option

A key step is whether the commissioner of environmental protection decides DEP will have to review and approve remediation or whether an LEP can verify the remediation has occurred in accord with remediation standards. That decision is to be based on:

- the potential risk to human health and the environment;
- the degree of environmental investigation at the site;
- the proximity of the parcel to “significant natural resources;”
- the character of the land uses of adjacent parcels;
- the complexity of the environmental condition of the parcel; and
- any other factor deemed relevant.

Even after that decision is made initially, it can be changed from DEP to an LEP or vice versa at a number of points in the process. According to DEP staff, such a change is most likely to be made if DEP initially retains review authority because little is known about the condition of a property. After the site has been investigated, the department may relinquish oversight to an LEP, particularly if the level of contamination is not severe.

Covenants not to sue. A major issue affecting development of property that may have environmental problems is liability for past occurrences at the site. One way governments have been able to help owners and developers with this problem is to explicitly specify the scope of the person's responsibility for pollution or contamination at a particular piece of property prior to a specific date. A mechanism that accomplishes this is a *covenant not to sue*.

In order to obtain a covenant in Connecticut, the party seeking protection must undertake certain remediation-related steps and provide the commissioner of environmental protection with sufficient information to ensure existing cleanup standards have been met. There are two types of covenants not to sue. They differ in terms of scope, cost, and availability.

In the past, one type was reserved for prospective purchasers; the other was for current owners of contaminated property. Since October 1, 1998, both purchasers and owners can acquire either type of covenant. Lending institutions with a security interest in a property also can obtain a covenant not to sue. Table III-3 compares the major provisions of the two types of covenants.

Under C.G.S. Sec. 22a-133aa, DEP may enter into a covenant not to sue, if a written remediation plan or final remedial action report has been approved for the property by the environmental protection commissioner. The party seeking the covenant cannot have caused or be connected with those who caused the pollution, and must agree to redevelop or continue productive use of the property. The commissioner also must determine the covenant “is in the public interest.”

This covenant only covers pollution prior to the agreement. It does not apply if the purchaser fails to carry out agreed upon remediation, the plan does not meet standards in place on the effective date of the covenant, a required environmental land use restriction has not been filed,

TABLE III-3. Comparison Of Covenant Not To Sue Provisions.

	<i>Sec. 22a-133aa</i>	<i>Sec. 22a-133bb</i>
Commissioner of environmental protection:	MAY enter into covenant, if requirements are met	MUST enter into covenant within 45 days of receiving certifications and documents, if requirements are met
Written remediation plan or final remedial action report has been:	approved by commissioner of environmental protection	approved by commissioner <u>or</u> a licensed environmental professional (party requesting covenant certifies no discharge occurred after approval of report) OR licensed environmental professional verifies property remediated
Party seeking covenant:	cannot have caused or be connected with those who caused the pollution	same as 133aa
Party seeking covenant:	must agree to redevelop or continue productive use of the property, <u>provided</u> commissioner determines covenant is in the public interest	must agree to redevelop or continue productive use of the property
Coverage	releases claims commissioner may have related to pollution or contamination on or emanating from the property that resulted from discharge/spill/etc. before the effective date of the covenant	same as 133aa
Covenant does not apply if:	purchaser fails to carry out agreed upon remediation, plan does not meet standards in place on effective date of covenant, or required environmental land use restriction not filed or its provisions not complied with	same as 133aa
Possible future DEP action	not precluded, if covenant based on information party requesting the covenant knew or had reason to know was false or misleading	not precluded, if covenant based on information party knew or had reason to know was false or misleading OR new information confirms previously unknown contamination from a discharge/spill/etc. prior to the effective date of the covenant
Monitoring	may be required	same as 133aa
Fee	3% of value of the property appraised as if uncontaminated	None
Transferable	Yes	No

or the provisions of the restriction have not been complied with. Continued monitoring of a property in accord with the remediation standards can be required. Finally, the covenant does not preclude DEP action if the covenant was based on information the party knew or had reason to know was false or misleading.

The prospective purchaser must pay a fee equal to 3 percent of the value of property appraised as if uncontaminated. (This money is deposited in the SCPRIF account.) No fee is charged parties who are successors in interest to the property.

Under C.G.S. Sec. 22a-133bb, the commissioner of environmental protection must issue a covenant not to sue to eligible parties within 45 days after receiving required certifications and documents. This type of covenant requires a detailed written remediation plan or final remedial action report be approved by the commissioner. Approved plans must be incorporated by reference, while approved reports require the person requesting the covenant to certify no discharge has occurred since the approval. Alternatively, a covenant must be issued if a licensed environmental professional approves a detailed written remediation plan that is incorporated by reference into the covenant or the LEP verifies the property has been remediated in accord with state standards and the party requesting the covenant certifies there was no subsequent discharge.

An applicant for this covenant cannot have caused or been affiliated with anyone responsible for the pollution at the site, and he or she must agree to redevelop or continue productive use of the property. There is no fee for this type of covenant.

Like the other type of covenant, continued monitoring can be required, and only pollution prior to the agreement is covered. The covenant does not apply if the property is not remediated in accord with the plan, the plan does not meet standards in place on the effective date of the covenant, or a required environmental use restriction was not filed or complied with. The covenant does not preclude DEP action if the covenant was based on information the owner knew or had reason to know was false or misleading.

In addition, and a key difference from the other type, this covenant does not preclude action by DEP if new information confirms previously unknown contamination occurred prior to the effective date of the covenant. The department also can take action if human health or the environment are threatened beyond acceptable levels due to a substantial change in exposure conditions at the site (e.g., a change in usage from nonresidential to residential). The other difference between this covenant and the one granted under Sec. 22a-133aa is that the latter covenant is transferable, while a Sec. 22a-133bb covenant is not.

Flexible standards and environmental use restrictions. Under state law, the Department of Environmental Protection has adopted regulations specifying maximum exposure levels in the soil for a variety of organic, semivolatile, and inorganic substances as well as pesticides, PCBs, and petroleum hydrocarbons. Higher standards apply to properties being used for residential purposes as opposed to industrial or commercial purposes.

Another statutory mechanism available to property owners is an environmental use restriction (EUR). Placed in the land records of a municipality where a site is located, they can be used to prevent the use of a property for certain purposes or to prohibit certain activities on the property. The purpose of EURs is to minimize the risk of human exposure to pollutants and hazards to the environment by limiting the uses of properties with environmental problems.

In order for an owner to be able to file an environmental use restriction, the commissioner of environmental protection or a licensed environmental professional must determine the restriction is consistent with state standards and regulations and that it effectively protects the public health and environment from pollution. EURs bind the owner of the land and his successors and also survive foreclosure. Release from a restriction in whole or part requires remediation of the property and written approval from the commissioner.

Funding Opportunities

The Department of Environmental Protection and the Department of Economic and Community Development oversee several financial programs to help brownfields. In conjunction with those activities, the two agencies also provide technical assistance to various parties regarding brownfield-related requirements. The major programs are listed in Table III-4, which is followed by more detailed descriptions of the programs.

<i>Program</i>	<i>Key Provisions</i>
Urban Sites Remedial Action Program	<ul style="list-style-type: none"> • created to identify, evaluate, plan for, and undertake remediation of polluted real property deemed vital to the economic development needs of the state -- limited geographic eligibility • DECD coordinates program in conjunction with other technical assistance provided to businesses in Connecticut • DEP oversees on-site investigation and remediation activities
Special Contaminated Property Remediation and Insurance Fund	<ul style="list-style-type: none"> • provides loans to municipalities, individuals, and firms for comprehensive environmental site assessments/investigations of real property and demolition costs to prepare contaminated property for development subsequent to assessment • commissioner of economic and community development, with approval of advisory board, awards funds
Dry Cleaning Establishment Remediation Fund	<ul style="list-style-type: none"> • provides grants (up to \$50,000/year for three years) to owners or operators of dry cleaning establishments for containment, removal, mitigation, or prevention of environmental pollution
Emergency Spill Response Fund	<ul style="list-style-type: none"> • provides financial assistance for specified purposes, including activities and staff for the property transfer act
Environmental Assistance Revolving Loan Fund	<ul style="list-style-type: none"> • provides grants/loans/lines of credit/loan guarantees to municipalities and businesses for certain prevention and remediation activities

On the federal level, recent tax code revisions also aid brownfield redevelopment. In certain cases, funds spent to clean up polluted sites can now be deducted on federal tax returns the year the expenditures are made rather than being depreciated over a number of years as previously required.

Urban Sites Remedial Action Program. The first major program to include state financial assistance for brownfields was the Urban Sites Remedial Action Program. In 1992, the legislature created USRAP to identify, evaluate, plan for, and undertake remediation of polluted real property deemed vital to the economic development needs of the state. In 1998, participation was expanded to include a broader range of urban community sites.

DECD coordinates this program in consultation with DEP. Eligibility is limited. Under the statutes, a site can receive financial assistance for evaluation and remediation, only if:

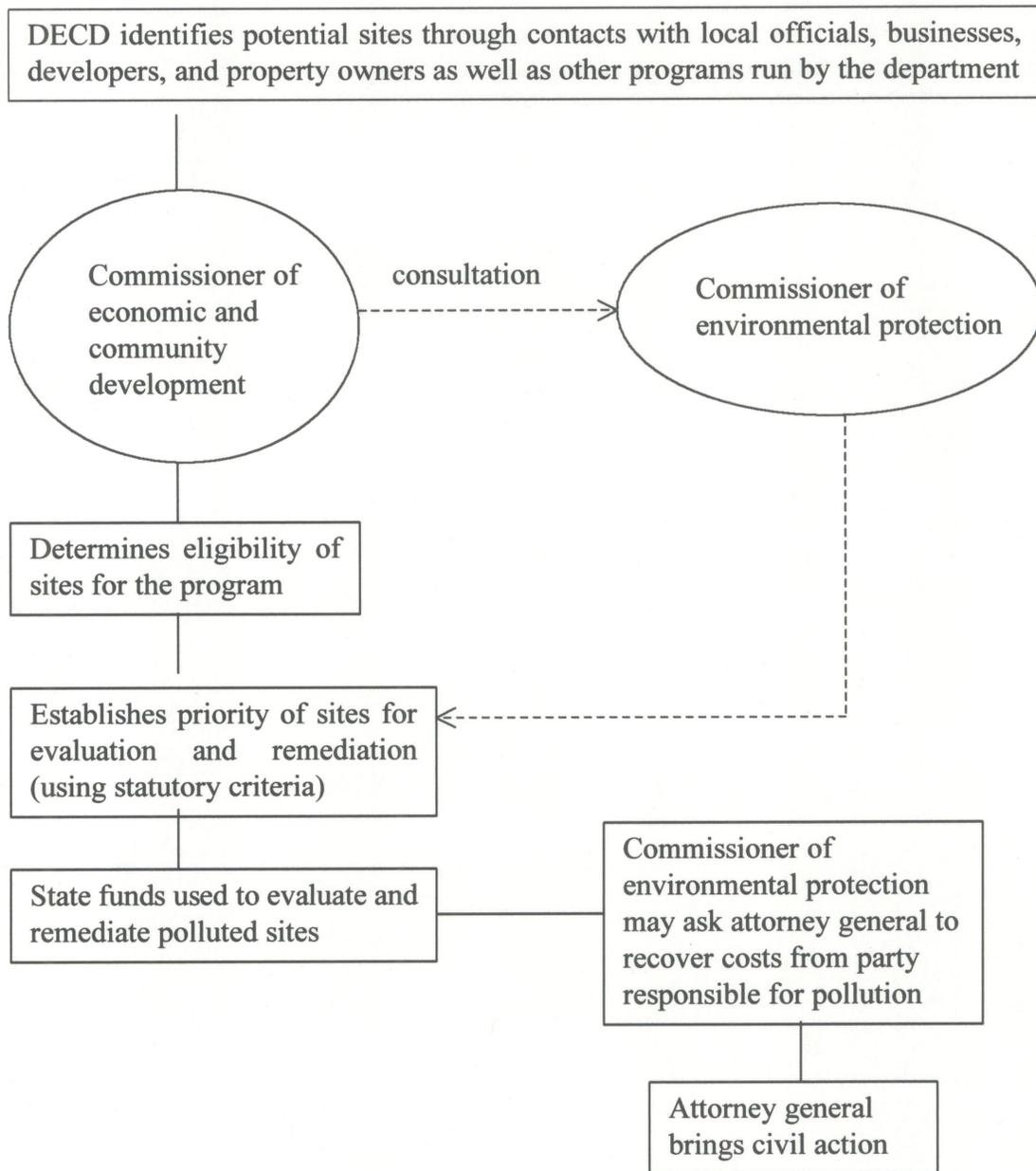
- the state owns the site or otherwise has the power to approve the type of development that will first occur after remediation; and
- the commissioner of environmental protection is unable to determine the responsible party for the pollution and cleanup of the site, the responsible party is not in timely compliance with orders issued by the commissioner to provide remedial action, or the commissioner has not issued a final decision on an order to a responsible party to provide remedial action because of a request for a hearing on the order or the order is subject to an appeal before the court; and
- the site is located in a *distressed municipality*, a *targeted investment community*,² an enterprise corridor zone, or another municipality designated by the commissioner of economic and community development. (Certain sites acquired by DECD before July 1, 1996 are also eligible.)

A variety of sources are used to identify potential sites for inclusion in the program. DECD staff responsible for the program are in frequent contact with local officials, businesses, developers, and property owners in conjunction with other programs they oversee. Internal agency mechanisms enable others in the department who become aware of sites as a result of their work to bring that information to the attention of the USRAP staff. The Industrial Parks Program, begun in the late 1960s, is an important source of identifying sites that municipalities believe have economic feasibility. Casual conversations with people are another source of leads on potential sites.

Sites targeted for evaluation and remediation are prioritized on the basis of estimated cost, anticipated complexity, estimated schedule, potential economic development benefits, and any other factors the commissioners of economic development and environmental protection deem relevant. Figure III-3 outlines the major provisions of the program.

² To be considered a *distressed municipality*, a town must meet quantitative physical and economic distress thresholds required for eligibility under the Urban Development Action Grant Program, have been adversely impacted by a major plant closing, relocation, or layoff within the past two years, or a portion of the town must be eligible for designation as an enterprise zone because it is contiguous to an enterprise zone in another town. To qualify as a *targeted investment community*, a municipality must contain an urban enterprise zone or enterprise corridor zone within its boundaries.

Figure III-3. Urban Sites Remedial Action Program (C.G.S. Sec. 22a-133m)



Source: LPR&IC

The Department of Economic and Community Development coordinates USRAP efforts in conjunction with other technical assistance activities it provides to businesses in Connecticut. DEP handles oversight of the activities at the sites undergoing investigation and remediation.

P.A. 93-428 established the *Urban Site Remediation Fund*. Money in this nonlapsing account is available to pay assessment and remediation costs for properties acquired by the state under certain statutorily specified circumstances.

Between 1989 and 1995, \$30 million in bond funds was allocated to the program. Through June of 1998, the state has provided \$20 million in financial assistance to 11 sites. The amounts distributed per site ranged from \$21,000 to \$8 million. Nearly all of the remaining money is reserved for specific projects. Table III-5 lists the projects funded through FY 98, the dollars allocated, and the uses of the funding.

<i>Town</i>	<i>Site</i>	<i>Date of Bond Authorization</i>	<i>Amount Allocated</i>	<i>Purposes</i>
Bridgeport	Lafayette Blvd.	December '94	\$360,000 ¹	Investigation & remediation
E. Hartford	Contramatics	September '93	\$36,820	Investigation
Hartford	Colt Facility	September '93	\$90,346	Investigation
Hartford	Ctr. for Performing Arts	September '93	\$300,000	Investigation
Hartford	Veeder Root	Sept. '93 & Feb. '94 October '94	\$450,000 \$1,300,000 ²	Investigation Remedial design & remediation
Meriden	MRM Industries/ Walbro Automotive	Sept. '93 & Oct. '94	\$7,255,470	Investigation & remediation
New Haven	Rte. 34 Biomedical Park	May '94	\$708,000 ³	Investigation
N. London	New London Mills	September '94	\$525,000 ⁴	Remediation
Norwich	Thermos Facility	September '93	\$21,407	Investigation
Waterbury	Century Brass	Sept. '93 & Feb. '94 May '94	\$870,000 \$7,130,000	Investigation Remediation
Windham	Windham Mills	September '96	\$975,000	Investigation & remediation
¹ Cost recovery will be sought when remediation is complete. ² An additional \$500,000 will be needed to complete this project. ³ To date, only \$476,858 has been spent. ⁴ \$145,000 received from cost recovery actions and \$5,940 from another bond allocation also used at site; DECD also provided money to the city for the investigation and initial remediation of the site.				
Source: Department of Environmental Protection correspondence (July 7, 1998) and interviews.				

In a complementary effort, DECD and DEP have also assisted a number of businesses through the Economic Development Initiative Sites program. Eligibility for this program is open to those that have the resources to begin an environmental investigation and cleanup. This includes firms that occupy sites that may have environmental problems, developers interested in such sites, or anyone working with DEP to evaluate sites.

Under this program, DECD reviews the sites and ranks them according to their potential for economic benefit and community need. Subsequently, DEP staff oversees remediation activities for the company. The goal is to expedite the time frame for state review of environmental assessment reports and remedial action plans.

Special Contaminated Property Remediation and Insurance Fund. SCPRIF was created in 1995 as a separate, nonlapsing account held by the treasurer. Revenue is obtained from multiple sources, including:

- proceeds from bonds issued by the state for deposit in the fund;
- revenues from taxes and fees statutorily required to be deposited in the fund;
- income earned on investing money in the fund pending transfer or use; and
- repayments from parties loaned money.

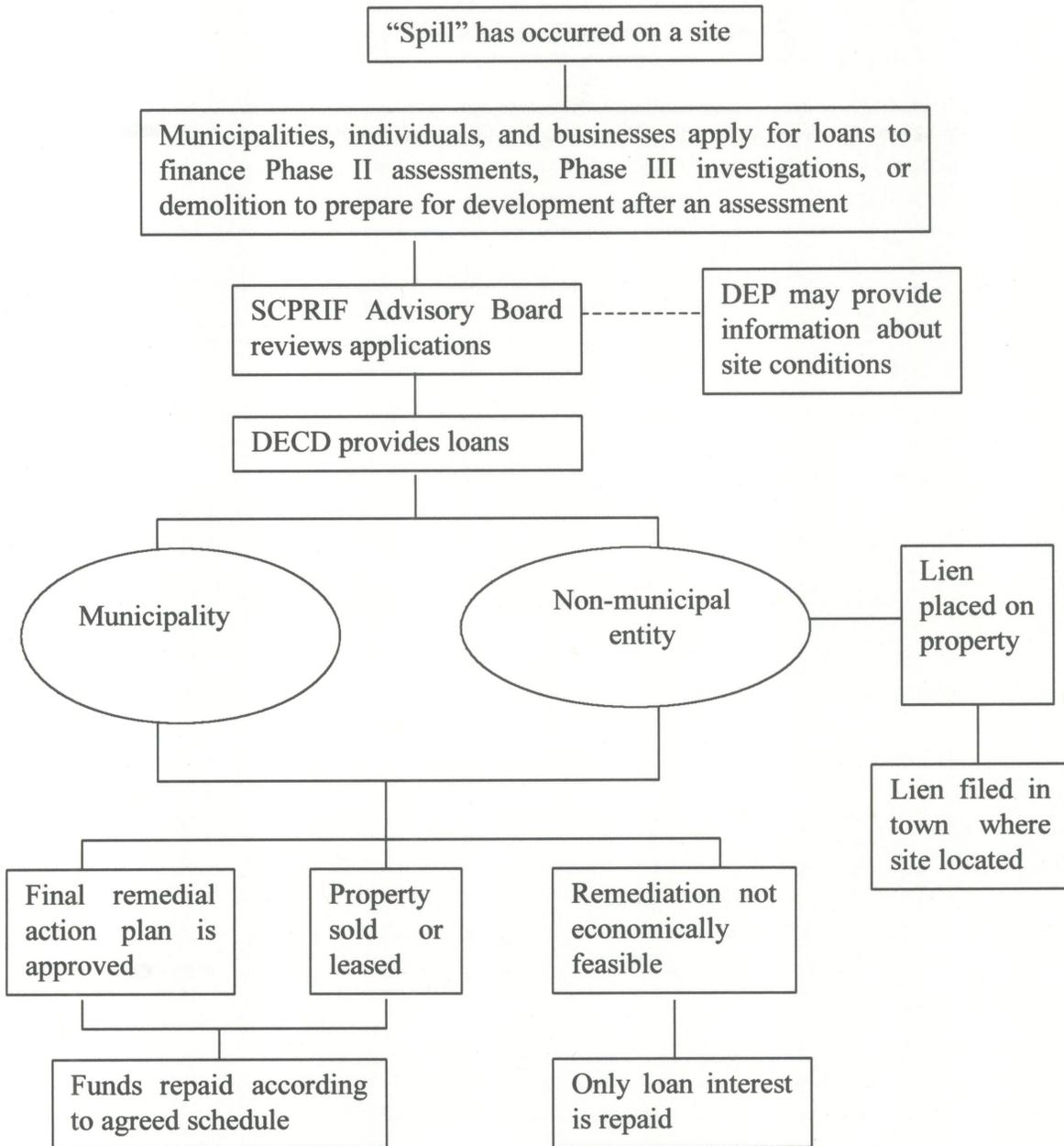
The statutory provisions of the program allow the commissioner of environmental protection to use the fund to pay for removal or mitigation of a spill on land or waters in Connecticut, if the property owner is an innocent landowner as defined in the statutes. (Generally, this is someone whose property is polluted due to the acts of others.) DEP can also receive up to \$5,000 in administrative costs for remediation of property that receives a loan under the program.

To date, DEP has not received any funds under the SCPRIF program. In February 1998, the department did receive approval from the state Bond Commission for \$1 million. However, this money is for the loan program being administered by DECD.

The commissioner of economic and community development, with approval of the SCPRIF Advisory Board, can use money from the fund for loans to municipalities, individuals, and firms for Phase II environmental site assessments, Phase III investigations of real property, and demolition costs to prepare contaminated property for development subsequent to Phase III assessment. DECD can receive up to \$125,000 per year in administrative expenses for this program. Figure III-4 summarizes the statutory provisions of this portion of the SCPRIF program.

The SCPRIF Advisory Board has seven members, who are appointed by the governor and legislative leaders. They include three representatives from municipalities, two from banks, and two with experience in contaminated property remediation. The chairperson is selected annually by the members. The board met for the first time in September 1997 with six appointees. As of December 1998, only five seats were filled.

Figure III-4. Special Contaminated Property Remediation & Insurance Fund Loan Process Under C.G.S. Sec. 22a-133u(b)



Source: LPR&IC

By the end of 1998, the board had met 13 times. It spent many of the early meetings establishing a process for soliciting, reviewing, and approving loan applications. It set up a two-part system. Applicants initially submit a limited amount of information that is used to screen eligibility. Those successfully passing that evaluation are notified they are eligible to submit a full application.

The deadline for the pilot round of pre-applications was May 1998. DECD received 22 pre-applications. The amount of money requested ranged from \$15,000 to \$565,000 for a total of \$3.7 million. Based on a preliminary review, the board eliminated 10 of the applicants for administrative or programmatic reasons, including incomplete information and ineligible activities.

The other requests were reviewed in detail. In June, the board selected six applicants to invite to submit full applications. Those applications were due in mid-August, and loan recipients were selected in September and October. The next round of pre-applications was due at the end of June. A similar time frame was used for those reviews. Some of the pre-applicants not selected to submit full applications during the pilot round may be invited to participate in future rounds.

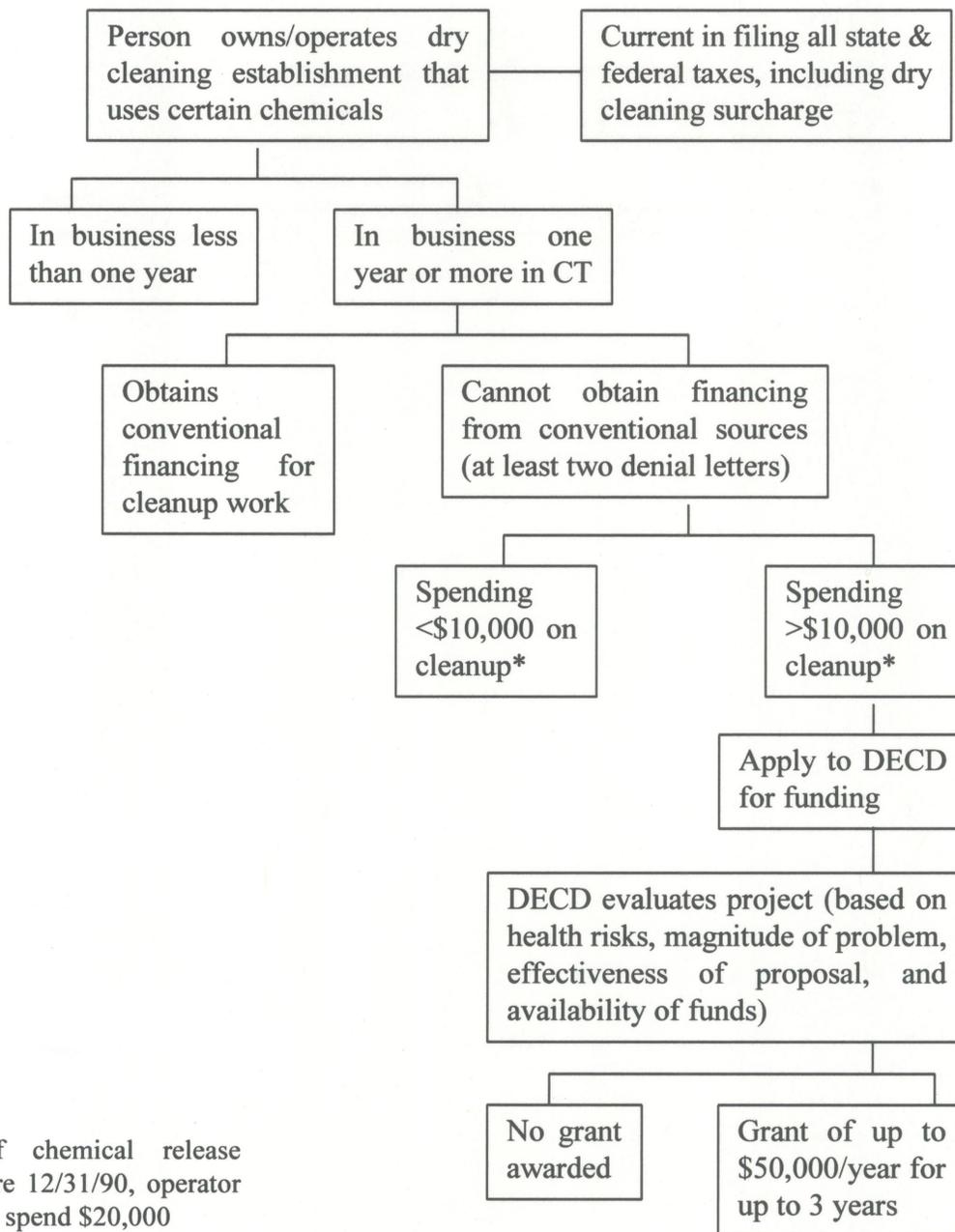
Repayment of the loans can be handled several different ways. Funds may be paid to DECD according to a specified schedule, including upon the sale or lease of the property. Under the statutes, no repayment is required, other than loan interest, if remediation of the property or its sale or lease is “economically infeasible due to the cost of remediation.”

The terms of a loan cannot include interest costs to the borrower that exceed the interest cost to the state. Funds received by parties other than municipalities require a lien in an amount equal to the loan. However, for the lien to be effective, it must be filed in the land records of the town where the property is located.

Dry Cleaning Establishment Remediation Fund. Since January 1, 1995, dry cleaning establishments have been required to pay a 1 percent surcharge on the gross receipts they receive for dry cleaning services they perform. This money is sent to the commissioner of revenue services quarterly for deposit in the Dry Cleaning Establishment Remediation Fund, which is a nonlapsing account within the General Fund.

The money in the fund is to be used primarily for grants to owners and operators of dry cleaning establishments for containment, removal, mitigation, or prevention of environmental pollution on or at their establishment. In order to qualify for a grant, the dry cleaning establishment must satisfy the commissioner of economic and community development that it has used certain products, been in business at least one year, and was unable to obtain financing from conventional sources on reasonable terms or in reasonable amounts. Figure III-5 summarizes the statutory provisions of the program.

Figure III-5. Dry Cleaning Remediation Grant Program



Source: LPR&IC

The maximum grant is \$50,000 per year. Currently, DECD limits program participants to three years of funding. The dry cleaning establishment must bear \$10,000 in costs (or \$20,000 if a release was reported to DEP prior to December 31, 1990). In addition, no business that unlawfully or intentionally discharged or spilled materials can receive funds.

Staff in the Infrastructure and Real Estate Division of DECD handles day-to-day administration of the program. Staff also evaluates all grant applications. That process involves:

- confirming the dry cleaning establishment's eligibility under the program;
- verifying all required information has been provided, including denial letters from lending institutions and a certificate of good standing if the applicant is a corporation;
- visiting the site of the dry cleaning establishment;
- contacting the Finance Division of the Department of Revenue Services (DRS) to verify applicants are paying their taxes; and
- requesting DEP review of application documents.

The first grants were awarded in 1996. Since then, 14 businesses have applied for grants. One application was denied, four were put on hold pending receipt of additional information, and nine were given grants worth \$1.1 million. Actual disbursements through October 1998 totaled \$619,100.

Table III-6 indicates the number of applicants and the amount of funding awarded by program year. The balance available for grants in October 1998 was \$1.7 million.

	<i>Year 1 (1996)</i>	<i>Year 2 (1997)</i>	<i>Year 3 (1998)</i>
No. of new applicants	5	9	3
No. of renewal applicants	not applicable	4	7
No. of grants awarded	4	9	9
Dollars awarded	\$200,000	\$450,000	\$450,000
Source: Department of Economic and Community Development memos and LPR&IC staff review of files.			

The statutory provisions of the program also allow DECD to receive 5 percent of the account balance or \$100,000 per year, whichever is greater, for administrative costs. Through October 1998, the department has received \$316,716 for administrative expenses. As of that date, it had expended \$57,185.

Emergency Spill Response Fund. Another program that has provided financial assistance to brownfields as well as other environmentally contaminated properties is the Emergency Spill Response Fund. The account is within the General Fund. It is to be used for specified purposes, including activities and staff for the property transfer law.

Environmental Assistance Revolving Loan Fund. In an effort to provide assistance to businesses that want or need to take actions to prevent pollution or comply with the Clean Air Act Amendments of 1990, the legislature created the Environmental Assistance Revolving Loan Fund (EARLF). Money in the fund was available through the Connecticut Development Authority to businesses with gross revenues of less than \$25 million in the fiscal year prior to application or less than 150 employees.

Money was provided in the form of a loan, line of credit, or loan guarantee for prevention activities as defined in the statute. The scope of the program expanded considerably on October 1, 1998. Since then, CDA or its subsidiaries can also use money from the fund for grants. (A separate subfund for grants was added to the existing loan and guarantee subfunds.)

Eligibility for all types of funding has been extended to municipalities, and the allowable uses now include remediation of contaminated real property. The term *remediation activities* is defined as "any activity to stimulate, encourage and carry out the identification, assessment, evaluation, acquisition, remediation, development or financing of contaminated property in this state." While not specifically a brownfields program, this state financial assistance effort can be of use to some parties interested in brownfield remediation.

Findings and Recommendations

In the mid-1980s, the federal government took steps to give states more flexibility to deal with brownfields. Focusing on issues such as lender liability, prospective purchaser agreements, municipal acquisition liability, and a process for removing sites from the federal super fund list, the U. S. Environmental Protection Agency laid out a variety of options for states to copy or modify.

In the 1990s, the states most likely to be successful in dealing with brownfields are those that offer a range of assistance for dealing with both the environmental and economic development sides of the issue. These cafeteria style approaches provide a menu of services from which owners, developers, and municipalities can select the tools they need. Among the most common types of program elements are:

- specific standards for cleanup tied to the type of planned re-use;
- clear and timely processing of cleanup plan reviews and approvals;
- liability protections for non-responsible parties;
- financial assistance for environmental assessments and cleanups;
- tax and other incentives for targeted development; and
- community support for the re-use of existing industrial sites.

Connecticut was among the earliest of the states to begin addressing brownfield issues statutorily. As such, it implemented the broad range of tools and programs described in Chapter Three. The program review committee believes the challenge in the next few years is to improve existing programs by clarifying procedures and increasing financial resources as outlined in this chapter.

Specifying a Definition

Connecticut has not established a statutory or regulatory definition of brownfields. The state Department of Environmental Protection does not generally use the term, while the Department of Economic and Community Development uses the federal EPA definition. The Connecticut Development Authority considers any site or building with economic potential that is unused or underutilized because of pollution problems to be a brownfield.

Generally during the course of this study, the EPA definition was used to facilitate discussion of the issues surrounding brownfields. *The program review committee believes the flexibility of Connecticut's current approach toward defining brownfields is preferable to imposing a statutory description.*

In the long-run, the absence of a statutory definition gives DECD and DEP the flexibility to assist a wide variety of properties including brownfield sites. Although clear recognition of properties as brownfields could result in a more targeted focus, the proliferation of tools and programs to assist brownfields in Connecticut suggests lack of attention has not been a problem.

Number of Brownfields

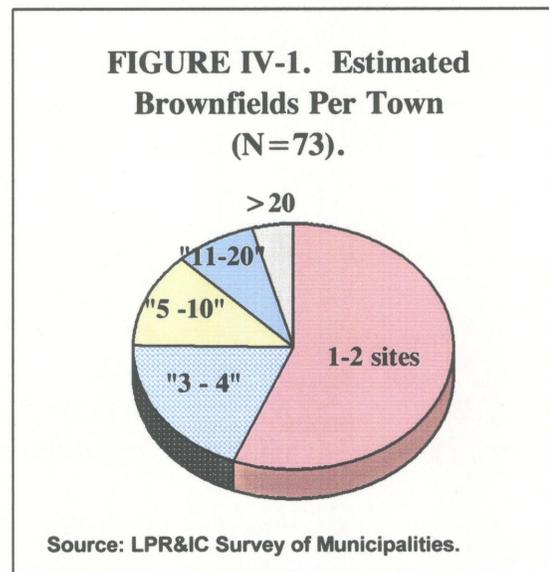
A recurring question during the program review study was "How many brownfields does Connecticut have?" No listing of known or suspected brownfields currently exists in the state. In an effort to quantify the problem brownfields collectively represent in terms of geographic size and number of sites, the committee sought information from a variety of sources. These included a program review committee survey of municipalities, the DEP Inventory of Hazardous Waste Sites, the DEP Property Transfer Act Database, and a survey conducted by the Connecticut Conference of Municipalities.

LPR&IC town survey. The first source was a survey sent to all 169 towns asking whether they had any brownfields, and if so, how many and what acreage they cover. The committee received 112 responses, covering all sizes of towns.

Two-thirds of the responding municipalities indicated they had brownfields. Of the 73 towns that quantified the number of sites, 56 percent had only one or two brownfields. In total, the towns reported 513 sites. Figure IV-1 presents the breakdown of towns by the number of estimated brownfields.

Three towns own or control all of the brownfields located within each, while 18 other towns own or control a portion of the sites within their boundaries. The state owns or controls some of the sites in seven towns, and the federal government owns or controls brownfields in three Connecticut towns. In 47 towns, all of the brownfields are privately owned or controlled.

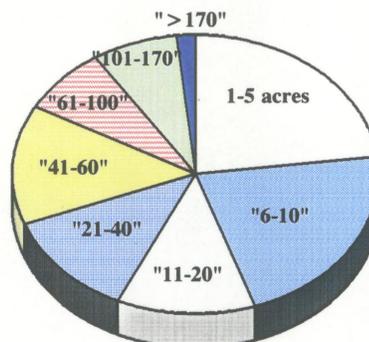
Sixty-five towns provided data on the approximate acreage covered by the brownfields within their boundaries. The total brownfield acreage per town ranged from one to 328 acres. Almost half of the towns had 11 acres or less, with nearly one-quarter having five acres or less. Thirty-two percent of the towns had between 12 and 55 acres, and 19 percent had between 60 and 170 acres. Figure IV-2 approximates the distribution of total acreage of brownfields per town.



Thirty-eight towns indicated other sites within their boundaries not included in the numbers presented above are suspected of being brownfields. The numbers ranged from one to 11 sites, with three-quarters of the towns answering the question estimating one to three sites were suspected brownfields. In total, there were 109 additional properties in this category.

Combining the two estimates produces a count of 622 brownfields. This represents data from 66 percent of the towns in the state. Based on a simple projection of the survey data using sites per town, an estimate of the number of brownfields statewide would be 942.

FIGURE IV-2. Towns with Specified Acreage of Brownfields (N=65).



Source: LPR&IC Survey of Municipalities.

Hazardous waste sites inventory. Another possible source of information about brownfields is the Inventory of Hazardous Waste Sites compiled by the Department of Environmental Protection. Information about the inventory is contained in the department's Site Discovery and Assessment Database.

Sites on the inventory have been identified as potential hazardous waste disposal sites or sites posing a threat to the environment or public health. Inclusion on the list does not confirm the existence of environmental problems; the actual extent of any contamination can only be determined by a professional site assessment. However, placement on the list indicates someone perceived the site might be contaminated.

Given that brownfields are sites with perceived or actual contamination, the program review committee believes it is useful to look at the contents of the inventory. Indeed, the Naugatuck Valley Redevelopment Agency's application for a federal EPA brownfield grant used the inventory as the basis for estimating the number of brownfields in its region.

As of August 1998, the inventory contained 672 properties. Most (556 sites) were placed on the inventory prior to 1987 when the statutory requirements for an inventory were revised. The properties on the inventory are located in 131 towns. The number of addresses per town ranges from one to 27.

Transfer act database. Another source of information about possible brownfields is the Property Transfer Act Database, which is also maintained by DEP. Under the property transfer act, certain types of properties must file paperwork with the Department of Environmental Protection whenever ownership of the property is transferred from one party to another. The specific form to be filed depends on the condition of the property at the time of the sale.

There are four types of forms, covering a range of sites from those never contaminated to those already cleaned up. The form relevant to this discussion is a Form III, which is used when a discharge of some type has occurred or conditions are unknown, and a specified party is taking responsibility for investigating the site and remediating it if necessary. While not all Form III properties will have economic development potential, they do meet the test of real or perceived environmental contamination.

As of October 1998, nearly 1,100 Form IIIs have been filed with DEP. Since a form must be filed every time a property changes hands, some of these filings represent the same address. An unduplicated count of filings shows a total of 850 address in 127 towns.

Connecticut Conference of Municipalities survey. Early in 1995, the Connecticut Conference of Municipalities surveyed towns regarding the existence of polluted sites. Fifty-six percent of the 73 respondents indicated they had: (1) vacant or abandoned sites not being developed due to actual or potential pollution problems; or (2) abandoned or polluted properties for which taxes were delinquent. The towns did not quantify the number or amount of acreage covered by these sites. Although these categorizations may encompass sites other than those typically thought of as brownfields, the figures provide another indicator of the distribution of brownfields in Connecticut.

Summary. Based on the information presented above about brownfields in Connecticut:

- there are at least 622 and probably more than 942;
- they can be found in at least 76 towns and more likely 131 towns;
- in total, cover at least 2,455 acres; and
- range in quantity from one site to at least 200 sites per town.

The reason these numbers are not more precise is due to several factors.

First, although the definition used in the committee survey referenced real or perceived contamination, some towns are reluctant to label any site not confirmed to be polluted as a brownfield. This is due to concern about stigmatizing a property still in private hands. It may also be a result of secretiveness on the part of property owners.

Another reason for the differences could involve the characterization of adjacent parcels of property as a single site for redevelopment purposes. While there may be multiple addresses and more than one owner involved in such a situation, the location is referred to as a single brownfield.

The program review committee believes individual towns can facilitate the redevelopment of brownfields by compiling information about the environmental issues and other characteristics (e.g., highway access, on-site utilities, etc.) of the brownfield sites in their communities. These data can be used by interested parties to measure the development potential of the properties.

In many larger cities, economic development offices already maintain lists of brownfields in order to have information available for individuals or businesses in a position to bring increased economic activity to the area. Thirty-four of the towns responding to the program review survey indicated they maintain some type of inventory or list of brownfield properties.

The Connecticut Development Authority recently issued a request for proposals to hire a consultant to work with towns to develop an inventory of sites with the greatest potential for redevelopment. This list will be used by the state in the future to identify potential brownfield projects for financial assistance.

Brownfield Trends

The number of brownfields may in fact be leveling off. Unless parties are willfully violating environmental laws, information available about working with and disposing of known contaminants should preclude the creation of many new sites with the types of problems that have to be dealt with at old factories and waste disposal sites. Barring a major tightening of remediation standards or new scientific findings about substances now in common use, there should be limited increases in the amount of new contamination to be dealt with in the future.

As the number of sites successfully redeveloped increases, the number of brownfields will stabilize or decline. In addition, as more sites are investigated, a number will be found to be uncontaminated, thereby removing the brownfields stigma from them. Although fewer sites may then remain to be cleaned up, the level of contamination among those sites may be quite high. These sites may also have the worst prospects for redevelopment. Therefore, brownfields will remain a problem warranting continued attention and resources for a number of years into the future.

Timing of Cleanup

Another dilemma for those working with brownfields concerns the timing of cleanup activities. There is ongoing debate whether future uses of a site should be determined before it is remediated.

Proponents of creating a roster of clean sites believe this approach is necessary to attract potential developers because many businesses do not want to wait for lengthy remediation work. They argue that for financial reasons many businesses looking to expand will seek properties allowing operations to commence in six to 12 months, or at most 18 months. (One notable exception is large-scale retail projects, which may have a multi-year timetable.) Proponents of this point of view fear any site not ready for the work needed to construct the buildings and other components required by the new business will not be given consideration for the project. Thus, the economic benefits of that project will be lost.

Municipalities responding to the program review committee survey about brownfields had mixed results from cleanups. Asked whether any had been cleaned up in the last five years, one-quarter reported at least one such site. In total, 29 towns reported 60 brownfields were cleaned up. Of those remediated, 32 have been redeveloped for new or existing businesses. One was used for a residential project.

Those advocating targeted cleanups believe the logistics of a brownfield project can be handled more advantageously when specific uses are identified first. This is because the cost and duration of a remediation process may be more expeditious when it is undertaken in conjunction with other construction activities at the site. Economies of scale exist, if equipment and personnel can be used for both remediation and new construction work.

Equally important, the parties involved will be able to ensure the level of cleanup undertaken satisfies the specific requirements of the planned use. Waiting for a specific project can reduce expenditures by avoiding unnecessary work (i.e., cleaning up a site to a higher level than necessary) or repetitious work (i.e., bringing back equipment to re-excavate a site).

In an ideal world with unlimited financial resources available for cleanup tasks, it would be desirable to remediate all contaminated properties in the state. However, in the real world with its limited resources, choices have to be made about prioritizing sites for cleanup.

Given this restriction, the program review committee believes identifying what, if any, specific problems exist at a site should be a key focus of state efforts to deal with brownfields. Under this approach, a site thought to be contaminated but found to conform with existing state remediation standards will no longer be labeled a brownfield. As a result, the expense of redeveloping the site immediately declines.

Equally important, for sites found to have problems, it will be possible to put a price tag and a time frame on the cleanup. This removes two elements of uncertainty for potential investors. Clarifying the options for a site can expand the development prospects and expedite the re-use process, which ultimately benefits the owner and the community-at-large.

The program review committee recommends state financial assistance for brownfields in the short-term be focused more heavily on site assessments. Providing financial resources at the front-end of the process will help quantify the scope of the problem facing Connecticut and clarify future resource requirements.

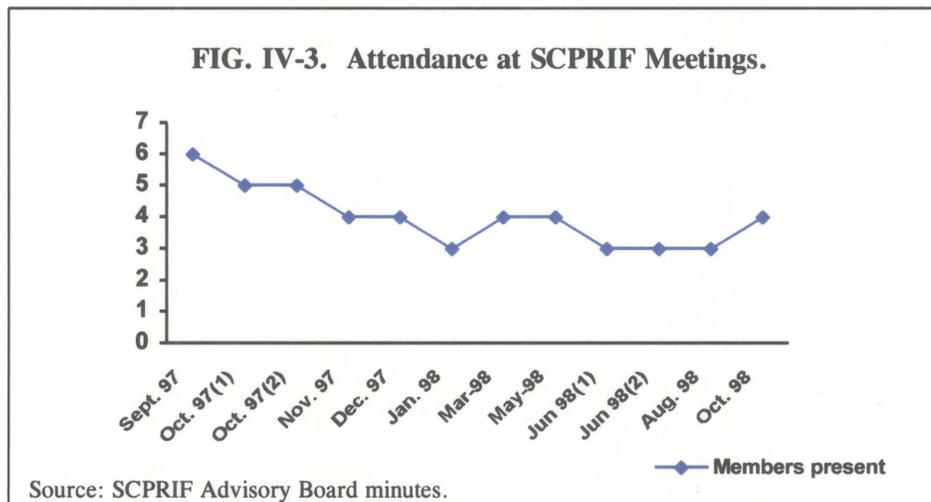
The vehicle to accomplish this approach already exists in the Special Contaminated Property Remediation and Insurance Fund. By clarifying that program as described below and monitoring funding, the state can make considerable progress toward categorizing brownfield sites and targeting the best candidates for redevelopment.

SCPRIF

The Special Contaminated Property Remediation and Insurance Fund was created in 1995. As currently structured, it provides loans to municipalities, individuals, and firms for specific types of environmental site assessments or the cost of demolition undertaken to prepare a site for development subsequent to assessment. Funds cannot be used for actual cleanup tasks.

In 1996, a seven-member Special Contaminated Property Remediation and Insurance Fund Advisory Board was established. Under C.G.S. Sec. 22a-133u, the board is "to review applications for loans from said fund" and "make a recommendation" to the commissioner of economic and community development regarding loans. The same statute specifies the commissioner may use funds deposited in SCPRIF "with the approval of the advisory board."

Board membership. The statute specifies the appointing authority of and perspective represented by each board member. Six seats were filled when the board held its inaugural meeting in September 1997. By the time it began reviewing applications in May 1998, only four members remained. Since then another member has resigned, and two new members have been appointed. Figure IV-3 shows attendance at each of the 12 board meetings held through October 1998.



The program review committee finds the SCPRIF Advisory Board has never functioned with a full complement of members. It appears all of the seats have been filled at least once, but never all at the same time.

The program review committee had a difficult time finding out who had appointed the past and present board members. Multiple requests to DECD, the agency responsible for staffing the SCPRIF program, produced incomplete and inaccurate data.

Therefore, **the program review committee recommends the Department of Economic and Community Development fulfill its administrative responsibility and maintain an up-to-date list of SCPRIF Advisory Board members, their appointing authority, and the perspective**

each member represents. In addition, the commissioner should notify the appropriate appointing authority whenever a vacancy occurs.

Program requirements. The SCPRIF Advisory Board is statutorily required to establish disbursement and loan cancellation criteria. Certain factors must be included, but others can be added by the board. The board spent its first eight meetings developing application procedures and documents. Ultimately, the board set up a multi-stage loan process. The key steps are:

- entities submit pre-applications, which briefly summarize proposed projects;
- board reviews and invites eligible entities to submit full applications;
- entities submit full applications, which include more detailed information about project activities and costs as well as future uses of the site;
- board reviews and obtains additional information about sites from DECD and DEP staff;
- board recommends projects to be funded;
- commissioner of economic and community development approves loan recipients; and
- DECD staff and outside legal counsel work with successful applicants to complete required loan documents.

Due to the newness of the SCPRIF program, committee staff was able to observe a major portion of the activity related to reviewing the initial rounds of applications for loans. Table IV-1 summarizes statistics for the three rounds of pre-applications received through September 1998.

In May 1998, the board received 22 pre-applications for the pilot round. At the end of June, the board invited six entities to submit full applications.

In August, the board recommended two projects be approved with conditions, and it sought additional

information from DEP regarding the other four. In October, two additional applications were approved, but an earlier approval was rescinded because the work had already been completed.

	<i>Pilot Round (May 22)</i>	<i>Round 1 (June 26)</i>	<i>Round 2 (Sept. 25)</i>
Pre-applications received	22	4	4
No. eliminated from consideration	16	2	2
No. invited to submit full applications	6	2	2
Full applications due	Aug. 15	Oct. 13	Dec. 7
Awards granted	3	review underway	--
Total dollars awarded	\$250,000	--	--
Source: SCPRIF minutes and DECD memo dated 11/19/98.			

In November, the commissioner of economic development accepted the board's recommendations to fund three requests totaling \$250,000. As of December 1998, the paperwork for the loans was being worked out.

Pre-application requirements are described in a "New Program Announcement" available from DECD. The full application requirements are contained in the "Application Package." The board has created pre-application and application evaluation forms for use by individual members when they review applications. The pre-application review addresses:

- applicant eligibility;
- establishment of achievable goals;
- knowledge about contamination and the cost of remediation; and
- project scheduling.

The full application form rates projects on a scale of one (low), two (moderate), or three (high) regarding feasibility, benefits, and risk.

Despite the existence of these materials, the committee is concerned about several aspects of the application review process. First, while there is no requirement the board adopt regulations, the process to date has offered the public little or no input regarding program procedures.

Second, while the policies the board is using to guide decisions on eligibility and the prioritization of project goals are still evolving, a project that meets stated eligibility criteria should not be eliminated solely because it fails to meet some unspecified requirement. Such a situation deprives applicants of advance notice about the grounds for disqualification.

For example, when the SCPRIF program began, the pre-application form asked whether a "Phase I Site Investigation" was in progress or had been completed.³ The form did not explicitly indicate one was necessary in order to be eligible for a loan. Yet three pre-applicants in the pilot round were eliminated from consideration in part because they did not have Phase I assessments.

A copy of the pre-application currently being used includes a note indicating: "A Phase I Environmental Site Assessment must have been completed or in process at the time of pre-application." It is dated August 3, 1998, more than a month after the second group of pre-applications had to be submitted.

³ Phase I assessments are not statutorily defined. A November 1991 guidance document issued by DEP describes the objective of such assessments as determining the likelihood a hazardous waste release has occurred at the site. It should include a walkover of the property and contain information about the physical characteristics of the site, a history of the uses of the property, the regulatory compliance history, and site features related to possible contaminant pathways.

The level of detail needed to suggest the possibility of environmental contamination varies. Sites with a well-known history of industrial activity can acquire a brownfield label and be burdened with concerns about the potential scope of problems simply on the basis of general knowledge in the community. A Phase I investigation is not necessary to confirm the site has at least a perceived problem. Therefore, the committee does not believe the absence of a Phase I assessment should automatically preclude an entity from being eligible to apply for the types of in-depth assessment fundable by SCPRIIF.

In another example, board members have expressed preferences for a certain level of clarity regarding the future use of project sites. Yet, the program materials do not indicate specific re-use plans are required.

The original pre-application requested a summary of redevelopment goals and information about the mechanism to be used to secure private developer interest. The revised pre-application materials (dated August 3) now carry the statement: “Applicants should discuss specific redevelopment goals and plans, including any discussion with potential developers.” At the same time, the program description in the document continues to include the statement: “The completion of these program activities will encourage private sector reuse of such sites by identifying obstacles to redevelopment.”

While the legislature gave the advisory board the right to establish loan criteria, the program review committee believes the advisory board should not lose sight of the intent of the program. SCPRIIF was established to help municipalities and others obtain information needed to define the environmental problems facing their brownfield sites in order to facilitate redevelopment efforts. Imposing the types of requirements described above unduly limits the program to brownfields where the future use of a site has been determined already. Yet discovering a site meets state remediation standards, which eliminates the stigma of the word “brownfield” as a description, can open up the options for that site. Conversely, learning a parcel of land has more far-reaching problems than expected can significantly change development plans for the site, especially in the short-term.

Language in the statutes shows the legislature clearly anticipated the possibility some projects receiving assistance under this program might never be redeveloped. Specifically, C.G.S. Sec. 22a-133u(c) allows forgiveness of a SCPRIIF loan, if remediation or the sale of the property is “economically infeasible” due to the cost of remediation.

A factor contributing to the conservative approach toward applications initially taken by the advisory board was uncertainty about funding for the program. During its review of the first group of pre-applications, the board expressed concern it would run out of money before all of the rounds of applications for 1998 were submitted. With 22 requests seeking a total of \$3.7 million and only \$1 million in the fund, the board used the limitations described above to narrow the projects selected. In the end, however, this cautious approach by the board resulted in only three projects

being awarded a total of \$250,000. (One city will get \$200,000; the other two will get \$30,000 and \$20,000 respectively.)

In order to ensure participation in the SCPRIF program is not unduly restricted, **the program review committee recommends program materials and procedures be revised to eliminate requirements that Phase I assessments must already be underway when entities submit a pre-application for a SCPRIF loan and that specific re-use plans must exist for a site.**

In addition, **the committee recommends the Department of Economic and Community Development and the SCPRIF Advisory Board be required to promulgate regulations for the operation of the Special Contaminated Property Remediation and Insurance Fund established under C.G.S. Sections 22a-133t and 22a-133u. At a minimum, the regulations should specify any eligibility criteria the board is requiring beyond those already statutorily specified as well as the process being used to evaluate projects.**

The availability of this information will also be useful to new board members. Counting the two seats still to be filled, a majority of the board was not part of the initial program discussions or the reviews of the early applications. Without written guidance for them, it will be difficult to ensure a consistent approach in the future.

Funding. When SCPRIF was originally created, it was anticipated the program would be paid for with \$30 million in revenue bonds. In 1996, the statute was changed to allow the state Bond Commission to issue general obligation bonds totaling up to \$5 million. The first allocation for SCPRIF was finally made in February 1998, when the bond commission approved \$1 million.

Other sources of revenue include loan repayments and interest earned on money in the fund. Under C.G.S. Sec. 12-63f, the fund also is to receive 20 percent of the increased revenue municipalities receive as a result of increased assessments on certain contaminated properties that have been remediated. (This provision expires January 1, 2003.) To date, no loan repayments or municipal revenues have been generated.

In addition to being a source of loan funds, SCPRIF can be used by DEP for certain activities related to removal or mitigation of a spill. To date, no money has been used for that purpose. In addition, the commissioner of economic and community development is allowed to use up to \$125,000 per year for administration of the program. As of November 1998, no funds had been transferred to the department.

The advisory board and the commissioner are required to report annually to the Environment Committee on the number and the amount of the loans made under the SCPRIF program. By February 1, 2000, the board also has to recommend to the committee whether the municipal payments under C.G.S. Sec. 12-63f should continue. As part of that process, the legislature will have an opportunity to assess the continued appropriateness of the program and its funding.

Urban Sites Remedial Action Program

The Urban Sites Remedial Action Program was created in 1992 to provide financial assistance for evaluating and remediating polluted properties "deemed vital to the economic development needs of the state." The program, which is operated jointly by DECD and DEP is often used in conjunction with other state, local, and private funding mechanisms.

The program has received \$30 million in bond authorizations from four special acts. To date, the state has provided \$20 million to nine cities to rehabilitate 11 sites. Most of the remaining money (\$9 million) is reserved for a major project in New London, which includes an area previously assisted as well as adjacent parcels of property. Another site in New Haven will also be receiving funds for remediation work. Table IV-2 summarizes the allocation of funds.

USRAP produces direct and indirect benefits to participating communities and adjacent regions. In addition to investigating and cleaning up environmental contamination, the selected projects enhance the economic well-being of their respective communities by stabilizing neighborhoods and creating jobs.

In 1998, participation in USRAP was expanded to include a broader range of sites. However, opportunities for new projects are limited until additional financial resources are directed to the program. Although USRAP will receive some money from cost recovery actions and scheduled paybacks, these amounts are likely to be small and will not occur for some time.

<i>Town</i>	<i>No. Of Projects</i>	<i>Dollars Allocated</i>
Bridgeport	1	\$360,000
E. Hartford	1	\$36,820
Hartford	3	\$2,140,346
Meriden	1	\$7,255,470
N. Haven	2	\$858,000
N. London	2	\$9,525,000
Norwich	1	\$21,407
Waterbury	1	\$8,000,000
Windham	1	\$975,000

Source: DECD and DEP

Given the benefits of USRAP beyond the immediate economic development results, the program is extremely important to many former industrial areas in the state. Until the recent expansion of CDA's involvement with brownfields, the program also was one of the few sources available to help pay for the remediation of sites.

Neither DECD nor DEP has developed a waiting list of sites to be assisted if additional dollars become available under USRAP. However, the discussion about the number of brownfields presented earlier in this report suggests there clearly are candidates for assistance. In order to provide some resources to aid the communities recently deemed eligible for this program and to supplement the increased identification of specific remediation needs proposed earlier, **the program review committee recommends an additional \$3 million be authorized for the Urban Sites Remedial Action Program.** This amount represents a 10 percent increase in funding for the program.

A companion effort aimed at assisting brownfields in targeted investment communities and distressed municipalities is called Economic Development Initiative Sites. This program provides the same types of technical assistance as USRAP, such as help from DECD navigating the government regulatory system and obtaining expedited reviews by DEP of environmental assessment reports and remedial action plans. However, it does not provide any financial assistance. Through the fall of 1998, the EDI program has helped 58 businesses in 31 towns.

The program review committee believes EDI is a beneficial effort. However, the committee is concerned materials distributed by DECD and DEP describing the USRAP and EDI programs do not clearly distinguish between the two. To prevent misunderstandings about the services and the results of the two programs, **the committee recommends the Department of Economic and Community Development rewrite the program materials to clarify the differences between the USRAP and EDI programs. Future presentations of data for the two programs should distinguish between the participants in each.**

Dry Cleaning Establishment Remediation Program

Since January 1995, a 1 percent surcharge has been levied on gross receipts from dry cleaning services. The money is deposited in a nonlapsing fund to provide grants to owners and operators of dry cleaning establishments for remediation and prevention of environmental pollution at their places of business.

The surcharge generates about three-quarters of a million dollars annually. As of October 1998, deposits in the fund totaled \$2.6 million, with a balance of \$1.9 million. Table IV-3 shows the revenue for each fiscal year since the start of the program.

Eligibility. The major statutory provisions of the program require grant recipients to:

- be in business for at least one year;
- pay the first \$10,000 of expenses (or \$20,000 if they were responsible for a release reported to DEP prior to December 31, 1990); and
- be unable to obtain financing from conventional sources.

In addition, no business that unlawfully or intentionally discharges or spills materials can receive funds, and annual grants cannot exceed \$50,000. DECD is required to "establish procedures for distribution of the grants," and it may adopt regulations. DECD has not promulgated any regulations, but it has set forth program rules in the "Guidelines and Eligibility Requirements" attached to the "Instructions and Application."

<i>FY</i>	<i>Revenue</i>
95	\$148,000*
96	\$687,000
97	\$764,000
98	\$747,000
99	\$197,000*
* only covers three months Source: DECD	

The program review committee finds the rules adopted by the Department of Economic and Community Development have placed limitations on the dry cleaning program that exceed those spelled out by the General Assembly.

The most troubling of the department's restrictions is a three-year limit on the receipt of grants (i.e., a maximum of \$50,000 per year for three years). Other procedural requirements established by the department include multi-year projects must be proposed at the time of an initial application and at least two financing denial letters must be submitted. In addition, DECD will only accept applications once a year.

Department staff indicated the rationale for the time-related restrictions is to provide opportunities for more dry cleaners to participate in the program and to limit the length of the cleanup projects undertaken. While concerns about resources are reasonable, the committee believes the appropriate way to make this type of program change is through a process allowing for public comment, such as by promulgating regulations or changing the statutes.

At the same time, the program review committee believes the department has not developed clear guidance about the factors that make an applicant ineligible for a grant. DECD staff evaluates each application -- confirming eligibility, visiting the site, and contacting other state agencies to verify required forms have been filed and taxes paid. If the applicant meets the statutory criteria but there are other deficiencies, the department places the request on "hold."

The types of issues triggering a "hold" cover a wide range. They include unpaid taxes, failure to identify the party legally responsible for the site, insufficient project information, ineligible cost requests, an unresolved Notice of Violation from DEP, and ongoing litigation.

According to DECD staff, "hold" designations are supposed to expire after one year, but an extension can be requested. On that basis, four applications from 1997 are still considered to be on "hold." Table IV-4 summarizes the number of applications received, placed on hold, and awarded grants during the first three years of the program.

The committee agrees applicants should be allowed to clarify cost data and project descriptions. However, it is troubling that an establishment not paying the surcharge, which funds the program, was placed on hold, pending payment of the tax

	<i>Year 1 (1996)</i>	<i>Year 2 (1997)</i>	<i>Year 3 (1998)</i>
New applicants	5	9	3
Repeat applicants	--	5*	7
Total applicants	5	14	10
No. turned down	0	1	0
No. on "hold"	1	4	1
No. awarded grants	4	9	9
* applicant on hold in 1996 submitted new application, which was also put on hold due to ongoing litigation			
Source: DECD memos and LPR&IC staff review of files			

and resolution of other issues, rather than being disallowed and told to re-apply later. DECD staff indicated there was concern a denial would be challenged because the applicant met the statutory criteria.

There are also several issues related to awarding grants to dry cleaners who lease rather than own sites to be cleaned up. Among the questions are how to: calculate length of time in business; determine whether establishments on short-term leases will still be in business at the end of the grant award; and ensure cleanup projects will be completed if a dry cleaner ceases operations.

To address these problems and ensure program requirements are clear, **the program review committee recommends C.G.S. Sec. 12-263m be amended to specify limits on the number of years an establishment can receive grants and the circumstances under which an applicant will be ineligible for consideration, including nonpayment of taxes and pending lawsuits.**

In addition, the Department of Economic and Community Development shall be required to promulgate regulations for the operation of the dry cleaning remediation program. At a minimum, the regulations should specify:

- **limits on the number of years an establishment can receive grants;**
- **circumstances under which an applicant will be ineligible;**
- **how ownership is defined and the effect of lease arrangements on participation in the program; and**
- **the types of project costs allowable under the program.**

Program participation. The dry cleaning remediation program was originally proposed to help long-standing dry cleaners with environmental problems caused by historic approaches to handling solvents and other chemicals. The goal was to help these small businesses clean up their sites and remain competitive. Money was also made available for prevention measures.

The program review committee is surprised by the small number of program applicants. Department of Revenue Services staff estimates approximately 400 establishments currently pay the dry cleaning surcharge. Yet, only 17 dry cleaners have ever applied to DECD for a grant. Through 1998, 12 establishments have received a total of 22 grants worth \$1.1 million. A majority sought the money to help pay for cleaning up spills.

DECD has used several mechanisms to promote awareness of the program. These efforts include informational sessions with groups at locations around the state, translation of descriptive documents into foreign languages, and advertising in a trade newspaper. However, the committee believes a direct approach that would reach all potential grantees has been overlooked.

The program review committee recommends the Department of Economic and Community Development prepare an informational mailing for the April 1999 grant cycle

to be sent out by the Department of Revenue Services with the quarterly surcharge payment forms. DRS has indicated such a mailing would be feasible as long as DECD covers any additional mailing costs resulting from the effort.

Paying for a mailing to the dry cleaning establishments will not be a hardship for DECD. By statute, the department receives at least \$100,000 per year from the dry cleaning fund for administrative expenses. When the program began, these expenses were paid out of the overall fund balance. However, since October 1996, money for administration has been segregated from the money available for grants.

As of October 1998, the balance in the administration category was \$260,000. A total of \$57,185 has been spent on expenses such as staff, printing, postage, and advertising. DECD staff time spent on the program is tracked, and the cost is deducted from the fund periodically. The 1998 allocation from the fund is expected to be transferred during November. The normal \$100,000 amount is supposed to be reduced by \$16,716 to reflect administrative expenses DECD acknowledges were paid out of the grant category rather than the administrative category between October 1996 and June 1997.

Another way DECD might increase participation in the program would be by accepting applications more than once a year. DECD developed projections showing two rounds of funding per year would cause the fund to run out of money by the end of 2000. This is based on every grant recipient receiving \$50,000 per year for three years, with several new establishments applying during each round. The program review committee believes this projection may be unduly pessimistic.

First, it presumes everyone who applies will request three years of funding. This has not been the case so far. Two recipients of 1996 awards sought additional funds in 1997, but not in 1998. Second, it assumes a nearly equal number of applications will be received during each of the two cycles every year. Since grantees can only receive one award per calendar year, the total number of establishments applying would have to double immediately for that to occur.

The program review committee recommends the Department of Economic and Community Development sponsor a second cycle of grants in the fall of 1999, if the dry cleaning remediation program does not attract at least seven new applicants for the April 1999 grant cycle. This goal represents slightly more than twice the number of new applicants received in 1998, but it is still lower than the number of new applicants in 1997. (Table IV-4 contained a breakdown of applicant data.)

Using the money in the fund as quickly as it is received is not necessarily a negative, especially when one of the goals of the program is to clean up contamination. In fact, the main beneficiary of a long-term fund is DECD, with its annual allotment for administrative expenses. The

program review committee believes repeal of the program and the surcharge should be considered, if the number of applicants to the fund does not increase.

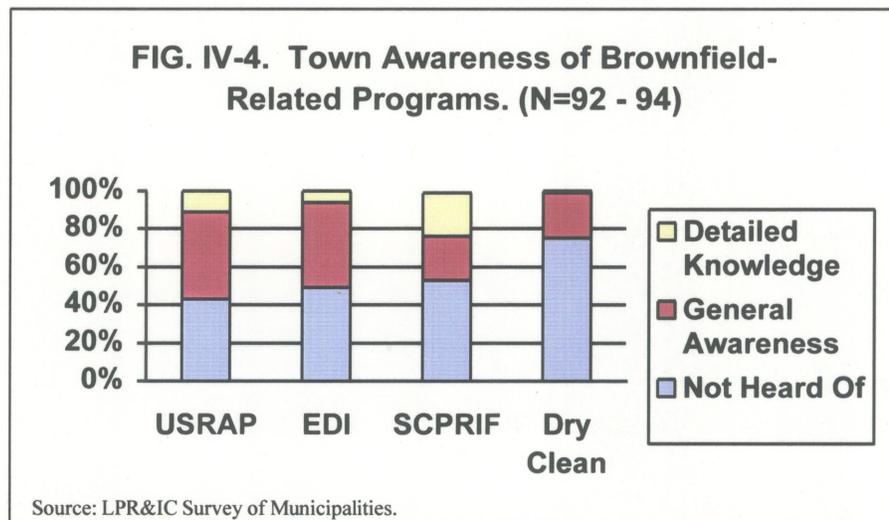
The program review committee recommends the Department of Economic and Community Development be required to submit a report on the Dry Cleaning Establishment Remediation Fund to the joint standing committee of the General Assembly having cognizance of matters relating to the environment on February 1, 2000. The report shall indicate the number of applications received and the number and amount of the grants awarded annually since the start of the program. It shall also include a recommendation as to whether the grant program and the gross receipts tax under C.G.S. Sec. 12-263m should continue. This reporting requirement is similar to one the legislature has already placed on the Special Contaminated Property Remediation and Insurance Fund.

Public Information Efforts

Connecticut has an array of tools and programs to assist brownfields. However, unless private and public entities take advantage of them, the problems of brownfields will not diminish. Because representatives of municipalities are often a source of information for developers seeking property and land owners seeking purchasers, the program review survey on brownfields asked questions about knowledge of specific brownfield-related programs. Figure IV-4 presents the responses for key programs discussed previously in this report.

Towns were asked to respond to the questions even if they had no brownfields. The best known of these programs is the Urban Sites Remedial Action Program (57 percent of the respondents) and its companion program EDI (51 percent).

Fewer than half of the respondents had any awareness of the Environmental Assistance Revolving Loan Fund operated by the Connecticut Development Authority. Similarly, less than half of the respondents knew about the state's voluntary remediation programs, which can be used by property owners to obtain verification a site voluntarily cleaned up meets state standards.



In November 1998, DEP hosted a one-day conference "Cleaning-up and Redeveloping Connecticut," which attracted attendees from the public and private sector throughout the state. The department also has prepared a brochure called "The Site Remediation Program," which describes a variety of the programs and tools available to facilitate the clean up of contaminated property. These efforts are good steps at increasing awareness.

Another useful tool for those working with brownfields would be a guidance document on the conduct of site investigations, which DEP has been working on. **The program review committee recommends the Department of Environmental Protection complete the planned guidance document for environmental professionals regarding the conduct of site investigations by March 15, 1999.**

Additional steps should also be taken to promote awareness of existing brownfield tools and programs. **The committee recommends the Department of Economic and Community Development prepare and distribute written summaries of the major brownfield-related programs, including SCPRIF, USRAP, EARLF, voluntary remediation, and the dry cleaning fund to relevant professional organizations, lending institutions, libraries, and higher education institutions.** Although DECD staff already provides technical advice to participants in its various economic development programs, the proposed documents would expand the range of parties who will learn about brownfield efforts before they make formal contact with the state.

Technical Change

C.G.S. Sec. 22a-134e enumerates the fees for filing forms for the property transfer act. It has been revised eight times, contains 16 subsections, and includes several fee schedules that vary depending on the filing date of the form. As currently written, the cross-references in two of the subsections are incorrect. **The program review committee recommends:**

- **the reference to "subsection (n)" in C.G.S. Sec. 22a-134e(b) be changed to "subsection (p)"; and**
- **the reference to "section 22a-133w" in C.G.S. Sec. 22a-134e(p) be changed to "section 22a-133y."**

APPENDIX A

**LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE
SURVEY OF TOWNS REGARDING BROWNFIELDS**

APPENDIX A

Responses to Legislative Program Review and Investigations Committee Survey of Towns Regarding Brownfields

Note: For purposes of this survey, a **brownfield** is defined as *an abandoned, idled, or under-used site where expansion or redevelopment is complicated by real or perceived environmental contamination.*

Name of your town: See Attachment A

Person completing survey _____ Title _____

1. Based on the definition above, does your town contain any brownfield sites?
yes **68%** no **32%** (N=112)

[If no, please go to Question 7.]

2. At the present time, how many sites in your town are labeled brownfields? _____ (N=73)

1 - 2 = **56%** 5 - 6 = **6%** 9 - 10 = **4%** 16 - 30 = **3%** 200 = **1%**
3 - 4 = **19%** 7 - 8 = **3%** 11 - 15 = **7%** 31 - 50 = **1%**

3. If known, approximately how many acres do these sites cover? _____ acres (N=65)

1 - 2 = **11%** 11 - 15 = **11%** 51 - 100 = **12%** 301 - 350 = **1%**
3 - 5 = **12%** 16 - 30 = **5%** 101 - 150 = **5%**
6 - 10 = **22%** 31 - 50 = **19%** 151 - 200 = **3%**

4. Approximately what percentage of these sites are owned or controlled by each of the groups listed below? (Percentages should total 100.)

_____ % town owned or controlled range = **1 to 100**; median = **24** (N=21)

_____ % state owned or controlled range = **1 to 94**; median = **50** (N=7)

_____ % privately owned or controlled range = **5 to 100**; median = **100** (N=69)

_____ % other (please specify) range = **25 to 100**; median = **60** (N=6)

5. Does your town maintain an inventory or list of the addresses and known physical characteristics of these brownfield sites? yes **45%** no **55%** (N=75)

6. In your town, are there any sites other than those included in the answer to Question 2 that are suspected of being brownfields? yes **52%** no **48%** (N=73)

6a. If yes, approximately how many such sites exist in your town? _____ (N=31)

1 = **19%** 2 = **26%** 3 = **32%** 5 = **7%** 6 = **3%** 10 = **10%** 11 = **3%**

7. Within the last five years, how many sites in your town that once were considered to be brownfields have been cleaned up? _____ (N=101)

0 = **71%** 1 = **19%** 2 = **5%** 3 = **1%** 5 = **2%** 6 = **1%** 12 = **1%**

7a. How many of those sites subsequently were redeveloped for new or existing businesses? _____ (N=29)

0 = **24%** 1 = **59%** 2 = **10%** 3 = **3%** 6 = **3%**

8. Within the last five years, has your town abated property taxes on a site with pollution problems while it was being cleaned up? yes **8%** no **92%** (N=98)

8a. If yes, how many properties have received such abatements? 1 = **88%** 2 = **13%** (N=8)

8b. If yes, what was the total value of those abatements? \$ _____ (N=4)

range = **\$18,000 to \$1,000,000**; median = **\$153,500**

9. For each of the programs listed below, please indicate the breadth of knowledge the public officials or employees in your town who are most likely to deal with brownfields have about each specific program.

	Have not heard of the program	Have general awareness of the program	Have detailed knowledge of the program
(a) Urban Sites Remedial Action Program (USRAP)	43%	46%	11% (N=93)
(b) Economic Development Initiative Sites (EDI)	49%	45%	7% (N=92)
(c) Special Contaminated Properties Remediation and Insurance Fund (SCPRIIF)	53%	23%	23% (N=94)
(d) Dry Cleaning Establishment Remediation Fund	75%	24%	1% (N=93)
(e) Environmental Assistance Revolving Loan Fund	56%	43%	1% (N=94)
(f) Emergency Spill Response Fund	37%	48%	15% (N=94)
(g) Tax Incremental Financing (TIF) bonds	56%	36%	9% (N=93)
(h) voluntary remediation programs	52%	42%	7% (N=93)

Note: Numbers may not total 100% due to rounding.

Attachment A

Name of your town: (N=112)

Andover	Hebron	Sharon
Ansonia	Kent	Shelton
Ashford	Killingly	Sherman
Avon	Killingworth	Somers
Berlin	Ledyard	Southbury
Bethany	Lisbon	Southington
Bethlehem	Litchfield	Stamford
Bloomfield	Madison	Stonington
Bolton	Manchester	Suffield
Bozrah	Mansfield	Thomaston
Branford	Marlborough	Thompson
Bridgeport	Meriden	Torrington
Bridgewater	Middlefield	Union
Bristol	Middletown	Voluntown
Brookfield	Milford	Waterbury
Brooklyn	Montville	Waterford
Burlington	Morris	Watertown
Canaan	Naugatuck	West Hartford
Chaplin	New Britain	West Haven
Cheshire	New Canaan	Westbrook
Chester	New Fairfield	Weston
Clinton	New Hartford	Wethersfield
Columbia	New Haven	Willington
Coventry	New London	Wilton
Cromwell	Newington	Winchester
Danbury	Newtown	Windham
Deep River	Norfolk	Windsor
Durham	Norwich	Woodbridge
East Hampton	Old Lyme	
East Windsor	Old Saybrook	
Eastford	Orange	
Easton	Oxford	
Ellington	Plainfield	
Farmington	Pomfret	
Franklin	Portland	
Goshen	Prospect	
Granby	Redding	
Griswold	Roxbury	
Groton	Salem	
Haddam	Salisbury	
Hamden	Scotland	
Hartford	Seymour	

APPENDIX B

AGENCY RESPONSES

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

DEPARTMENT OF ENVIRONMENTAL PROTECTION



January 19, 1999

To: Michael L. Nauer, Director
Legislative Program Review and Investigation Committee (LPR&IC)

From: James F. Abromaitis, Commissioner
Department of Economic & Community Development (DECD)

Re: Response to Committee Findings and Recommendations
LPR&IC Draft Final Report - *Brownfields in Connecticut* – January 6, 1999

The main focus of the LPR&IC recommendations is twofold: 1) clarify procedures for brownfield programs and 2) increase financial resources. This agency endorses these goals; however, we have reviewed the specific recommendations made to meet these goals and feel that further input from DECD is appropriate. DECD's response to these specific recommendations are outlined below in the order of report recommendations.

Review Committee Recommendations and DECD Response

1. General

The program review committee recommends state financial assistance for brownfields in the short-term be focused more heavily on site assessments. (page 44)

This agency believes that the strategy to primarily or exclusively focus state financial resources on site assessments unnecessarily limits the ability of the state to implement clean-up initiatives and respond to the timely needs for reactivation of these properties.

Placing an emphasis on either site assessments or on site remediation of brownfield properties will limit the state's ability to effectively recycle these sites back into productive use. It is this agency's experience and opinion that there is an equal need for the state to actively support both site assessment and remediation, and that a deliberate shift of focus to concentrate on either of these tasks will be at the expense of the other. Project proposals are brought to this agency's attention through numerous local public and private entities. Some sites merit only site assessment support as a catalyst for reuse. However, other sites merit remediation support to overcome redevelopment obstacles. These needs vary depending on many factors (e.g., private vs. municipality, timetable, goal and nature of reuse plan, etc.). Therefore, the state's emphasis on funding brownfield initiatives needs to take a composite approach wherein both site assessment and remediation needs should be considered. Thus, maintaining a dual funding focus, affords this agency to effectively respond to the needs of the projects and the state's clients. In summary, placing the emphasis on state financial assistance for environmental site assessments over clean up will have limited success in creating an inventory of "ready to use sites" and unnecessarily restricts the state's response to the brownfield problem.



2. *Special Contaminated Property Remediation Insurance Fund (SCPRIF)*

a) *SCPRIF Advisory Board Appointments*

The program review committee recommends the Department of Economic and Community Development fulfill its administrative responsibility and maintain an up-to-date list of SCPRIF Advisory Board members, their appointing authority, and the perspective each member represents. In addition, the commissioner should notify the appropriate appointing authority whenever a vacancy occurs. (page 45)

The DECD believes that a full compliment of advisory board members is crucial for board effectiveness and agrees that efforts to fill board seats (and maintain related records) are essential.

DECD has collected and will continue to maintain this information and notify the appropriate appointing authority regarding vacancies. One problem not mentioned in the report is the impact that these vacancies have on the board's ability to review applications. The complexion of the board is designed to provide the expertise needed (e.g., environmental, banking, & municipal). In addition, terms of appointments should be clarified.

b) *SCPRIF Requirements for Phase I Site Assessments and Reuse Plans*

The program review committee recommends program materials and procedures be revised to eliminate requirements that Phase I assessments must already be underway when entities submit a pre-application for a SCPRIF loan and that specific re-use plans must exist for a site. (page 49)

Phase I site assessments are a necessary prerequisite toward establishing the scope and cost of a remedial investigation.

The recommendation to de-emphasize or eliminate Phase I criteria in the selection process would not be prudent. Phase I site assessments establish a basis upon which further environmental surveys are conducted for the subject site (i.e., Phase II and Phase III). Although, in many cases, site contamination may be obvious or well known, a Phase I survey will review the entire site and aid in identifying more completely all areas of concern (AOC)—not just the obvious ones. Phase I site assessments are not independently eligible for funds through the SCPRIF program; however, they are a necessary element for determining the scope of investigatory work and in most cases can be prepared at minimal cost. Evidence that a Phase I will be delivered indicates a commitment by the applicant and helps to ensure that implementation of Phase II and III funded efforts can proceed.

The DECD strongly believes that the basic concept of a reuse plan should remain a requisite to financial assistance.

The recommendation to de-emphasize or eliminate reuse and end-use criteria in the selection process is detrimental to the intent of the legislation. The entire report emphasizes reuse and redevelopment in defining the brownfield issue/approach, which is absolutely correct, yet this recommendation is contrary to the report's emphasis. During the review committee's presentation, it was noted that the advisory board requires specific reuse plans but that applicants with a general idea of reuse should not be eliminated. The advisory board may ask for specifics but some applicants with just a general sense of reuse can qualify. For example, the Town of Coventry was recently approved for a \$48,000 loan for the Kenyon Mills project wherein a general versus specific reuse plan was submitted. This element must be taken in the context of the entire application and becomes a judgement decision on the advisory board.

The requirement for a basic property reuse plan helps to ensure that funded brownfield projects are recycled into productive reuse in a marketable setting. In most cases, this is the trigger for repayment of SCPRIF loan funds. Redevelopment is affected by many factors beyond environmental conditions (which the report highlights). A reuse plan helps to identify the strengths and weaknesses of these other factors, which have a cumulative effect on the viability of redevelopment. Without a reuse plan, we could end up

funding environmental investigations for properties that cannot be redeveloped. This would also increase the likelihood of defaults on loan repayments.

c) Regulations

The program review committee recommends the Department of Economic and Community Development and the SCPRIF Advisory Board be required to promulgate regulations for the operation of the Special Contaminated Property Remediation and Insurance Fund established under C.G.S. 22a-133t and 22a-133u. At a minimum, the regulations should specify any eligibility criteria the board is requiring beyond those already statutorily specified as well as the process being used to evaluate projects. (page 49)

The DECD opines that regulations will unnecessarily limit the department's ability to keep the program flexible and responsive to address the diverse needs of projects brought to the state for assistance and to adjust the program to meet changing market conditions. The department strongly supports that a set of guidelines for this program be developed and distributed to applicants stating the eligibility/selection criteria for this program.

The report often cites the "newness" of the program when evaluating its performance (implementation of the program is about six months old). In addition, the review committee states that flexibility is preferable in defining brownfields. This flexibility aspect also applies to program implementation. This agency submits that the committee's recommendation to promulgate regulation for this programs be deferred for three years to allow an adequate period of time to accrue for an accurate evaluation this program. If questions persist after such time, then serious consideration of regulations is warranted.

d) Regarding Additional Requirements

The LPR&IC concluded that the SCPRIF program as being implemented may be too narrowly focused wherein meeting the intent of the legislation was drawn into question. One reason for this conclusion may be the low number of applications approved. However, this totally ignores the newness factor. The rate of application approval has increased significantly since the initial round. In addition, the amount approved versus requested is very misleading. It was not unusual to receive applications for items not eligible (i.e., clean up). For example, one applicant requested \$1.2 million when less than half was eligible. The same situation occurred with another request for \$565,000. As the program matures, this problem is subsiding. Recent requests for ineligible funds have reduced significantly.

Selection criteria has evolved with program implementation. However, this does not mean that applicants have been treated inconsistently or unfairly, which is implied by the review committee. The advisory board decided with the initial round to require Phase I work be completed or at least initiated. This was added to the pre-application form. Subsequent applicants had the advantage of knowing such but were not selected on a different basis than initial applicants. It is too easy to lose sight of the purpose of the pre-application and full application approach. This allows a simple initial screening before too much time and emphasis is placed on application efforts. This benefits applicants as much, if not more, than the review parties. The report fails to mention that non-selected pre-applicants are encouraged to reapply if questions can be clarified.

3. Urban Sites Remedial Action Program (USRAP)

a) The program review committee recommends an additional \$3 million be authorized for the Urban Sites Remedial Action Program. (page 50)

The DECD appreciates the recognition of the value of this program.

b) The program review committee recommends the Department of Economic and Community Development rewrite the program materials to clarify the differences between the USRAP and EDI programs. Future presentations of data for the two programs should distinguish between the participants in each. (page 51)

Program material will be revised to clarify that the Economic Development Initiative (EDI) is programmatically part of the Urban Site Remedial Action Program (USRAP).

4. Dry Cleaning Establishment Remediation Program

a) The program review committee finds the rules adopted by the Department of Economic and Community Development have placed limitations on the dry cleaning program that exceed those spelled out by the General Assembly. (page 52)

It is this agency's opinion that information requested is necessary for the proper stewardship of public funds established by C.G.S Sections 12-263m (e) through (g) inclusively. However, this agency will propose legislation to clarify the appropriate program issues.

DECD established a three year limit for annual grant awards to projects based on: 1) an average project cost; 2) to ensure that grant awards do not outpace surcharge receipts; and 3) to provide an opportunity for all tax paying dry cleaners to participate in the program.

Other "limitations" identified by the committee are either based on the statutory requirements or are compatible with information requested by DECD through other programs. By way of example, the request for two denial letters from conventional financing sources implements Section 12-263m(c)(3) C.G.S., "...is **unable to obtain financing from conventional sources on reasonable terms or in reasonable amounts.**"

b) The program review committee recommends C.G.S. Sec. 12-263m be amended to specify limits on the number of years an establishment can receive grants and the circumstances under which an applicant will be eligible for consideration, including nonpayment of taxes and pending lawsuits. (page 53)

The DECD will propose legislation to clarify the appropriate program issues.

c) In addition, [the program review committee] recommends, the Department of Economic and Community Development shall be required to promulgate regulations for the operation of the dry cleaning remediation program. At a minimum, the regulations should specify: 1) limits on the number of years an establishment can receive grants; 2) circumstances under which an applicant will be ineligible; 3) how ownership is defined and the effect of lease arrangements on participation in the program; and 4) the types of project costs allowable under the program. (page 53)

The DECD believes that regulations are unnecessary for similar reasons as previously stated for the SCPRIF program. This agency submits that with legislative amendments to cure the issues outlined in the committee report and the dissemination of program guidelines (as suggested for the SCPRIF program) both the public input and the programmatic clarification needs will be fulfilled.

This agency also suggests that the need for regulations be reconsidered as part of the findings in the February 1, 2000 report to the appropriate legislative committee.

d) The program review committee recommends the Department of Economic and Community Development prepare an informational mailing for the April 1999 grant cycle to be sent out by the Department of Revenue Services with the quarterly surcharge payment forms. (page 53)

The DECD has already begun coordinating with DRS to include an informational pamphlet with the April 1999 DRS mailing.

e) The program review committee recommends the Department of Economic and Community Development sponsor a second cycle of grants in the fall of 1999, if the dry cleaning remediation program does not attract at least seven new applicants for the April 1999 grant cycle. (page 54)

DECD cash flow analysis for this program does not support this course of action and would jeopardize active grantees.

It is unclear why the committee decided to use seven applications as a threshold for determining the need for a second round for receipt of applications. DECD is continually reviewing the progress of all its programs and implementing the appropriate modifications to meet demand. Heretofore, activity has not suggested the need for this agency to accept two rounds of applications a year. DECD shall consider the necessity of a second round based on first round activity and client input.

The committee report states, on page 54, that the DECD is the "the main beneficiary of a long-term fund is DECD, with its annual allotment for administrative expenses." A review of this agency's administrative disbursements from program funds will reveal that such funds were not excessive, were prudent, and well below the statutory allotment. The DECD has no interest in managing programs for the sole purpose of capturing administrative funding as implied. **This agency strongly requests that this inappropriate statement be struck from the final report.**

f) The program review committee recommends the Department of Economic and Community Development be required to submit a report on the Dry Cleaning Establishment Remediation Fund to the joint standing committee of the General Assembly having cognizance of matters relating to the environment on February 1, 2000. The report shall indicate the number of applications received and the number and amount of the grants awarded annually since the start of the program. It shall also include a recommendation as to whether the grant program and the gross receipts tax under C.G.S. Sec. 12-263m should continue. (page 55)

The DECD would be pleased to assemble such a report with recommendations to the committee of the General Assembly having cognizance of matters relating to the environment. February 1, 2000 should afford an ample timeframe within which to evaluate the future of this program.

It should be noted that the report did not state that the fund to date is self-sustaining as the legislature intended.

4. Public Information

The program review committee recommends the Department of Economic and Community Development prepare and distribute written summaries of the major brownfield-related programs, including SCPRIF, USRAP, EARLF, voluntary remediation, and the dry cleaning fund to relevant professional organizations, lending institutions, libraries, and higher education institutions. (page 56)

The DECD would be pleased to participate in the preparation and distribution of a public information brownfields package. However, since a good number of the programs listed in the report are not within this agency's authority it is strongly suggested that the other state organizations, DEP and CDA, be jointly charged for team implementation.

Public awareness of the programs is actually very good considering varied eligibility issues and the newness factor. For example, at least 50% municipalities are aware of the SCPRIF program even though it is a very new program. For the Urban Sites Remedial Action Program, many municipalities are not eligible, therefore the percentage of reported awareness may be misleading.

MEMORANDUM

5. General Comment on the Report

Site Factors Affecting Development (Fig. I-1, p.6): Timeliness is a major factor not recognized in the report. This figure identifies major elements affecting development. During the LPR&IC draft report comment period of September 1998, our agency emphasized this point. It does not appear that the review committee interviewed developers or owners, which is unfortunate. If so, timeliness (i.e., time value of money) would have readily surfaced as a predominant factor. This point is extremely relevant because the review committee's recommendations for program improvements should not jeopardize the program's ability to be flexible and responsive which is critical for addressing the timeliness factor. Recommendations for regulations would undermine this important issue.

Page 7, para. 2: The concept of economic development is ever evolving. A more progressive definition of economic development encompasses quality of life issues (recreational parks, etc.) in addition to the traditional businesses orientation, i.e. new jobs and new taxes. In some circumstances, conversion of former industrial/commercial sites is appropriate for these quality of life projects. In general, the remedial effort will be more extensive and costlier due to the need to bring the property into compliance with the stringent residential standards.

In the report, the body of chapter one should recognize that since its inception, Connecticut's initiatives to address brownfield properties have placed emphasis on economic development (beyond environmental protection). Economic development as a driving catalyst is what makes Connecticut's response to this development issue unique and successful. DECD's role and partnership with DEP is not recognized to the extent that it should be. Connecticut is a state leader in brownfield initiatives wherein our economic-environmental partnership is a role-model success factor nationwide.

The review committee conducted a survey in an attempt to estimate the potential extent of brownfields in Connecticut. As noted in the report, a deliberate effort to survey such properties has not been accomplished to date. This survey effort is a good first attempt to quantify the issue. However, caution should be exercised in extrapolating and using this data to characterize the brownfield issue from the state perspective. The quality of the data collected is entirely dependent on the knowledge of the individual respondent, his/her familiarity with the community and the amount of time he/she was able to allot in responding to the survey. The results are potentially misleading – the actual number is likely to be significantly greater.

Conclusion

In summary, this agency applauds the review committee's efforts in reviewing the brownfields issue and assembling this report. Brownfields redevelopment is an extremely complex issue with multiple factors; not limited to contamination. The committee staff has done a yeoman's effort in evaluating this topic. This agency agrees with the review committee's general finding regarding the state's brownfield programs and appreciates the recognition of the value of these programs. The specific recommendations intended to implement these general findings, however, must not constrain the state's ability to effectively assist both the public and private sector efforts to recycle these significant properties back into the community. Attached, hereto is supplemental commentary from the SCPRIF Advisory Board regarding this report. Please do not hesitate to contact Chester D. Camarata, P.E. at 270-8140 if you have any questions, comments or follow up.

Attachment – January 15, 1999 Memo from Valarie Ferro, Chairperson SCPRIF Advisory Board

Page 5, Development Factors

In the narrative, a number of factors affecting redevelopment are mentioned. We believe that Figure 1 should depict major factors. Ownership (public v. private; willing v. unwilling) and the presence and condition of buildings should be included. "Access to supply of workers" does not drive redevelopment, but is a factor in marketability and the desirability of the location. "Proximity to transportation" should be replaced with "Access and visibility"; replace "Zoning restriction" with "Regulatory compliance"; and replace "Local tax rate" with "Availability of local and state incentives". These elements are commonly known as factors driving the redevelopment.

On page 7, paragraph 4 could be misleading. In many cases, the costs of remediating are NOT greater than developing a comparable clean site, thus the reference to "perceived" environmental contamination. Infrastructure costs are quantifiable, but there are also intangibles associated with developing a new (typically suburban) site. Extremely high land costs and overcoming anti-development citizen groups have adversely affected development costs and have prolonged implementation to the point where developers often cannot continue to carry the costs. Brownfields, aside from real or perceived contamination, offer incredible access and visibility, in-place infrastructure of adequate capacity, developer incentives, and proximity to skilled workers. It is challenging to assign a dollar value to these "intangibles". Consider clarifying this paragraph to reflect this reality.

Page 9, Roles and Responsibilities

There should be a clarification here with regard to your focus. If the discussion is only intended to address the environmental remediation component to redevelopment, this list would be sufficient although the focus should be broadened beyond environmental hurdles. If your intent is to identify major activities involving redevelopment then the list should reflect these components:

- Identification of ownership
- Obtain right to enter property
- Clarification of responsibility
- Initial environmental assessment
- Redevelopment evaluation
- Final pro forma/marketability
- Determination of end use
- Initial search for end user
- Procurement of implementation funds
- Environmental investigations necessary to prepare remediation plans
- Preparation of remediation plan
- Clean-up/post-remediation monitoring
- Redevelopment implementation

The point here is to educate people to the multiple facets of redevelopment that extend beyond site characterization.

Page 10, Table II-1

Consider renaming this table "Public Roles in Brownfields Efforts in Connecticut" by removing the entry of "Private parties". As currently presented, the roles associated with the private sector appear weak and secondary to the public entities. Yet without private participation, essentially no brownfield in this State would be redeveloped. As an alternative, the "Private parties" role could be expanded. Try shifting the examples of private parties in the first column over to the second, then strengthening the descriptions.

Page 15, Table II-3

You should confirm with the City of Bridgeport the activities performed under their USEPA Brownfield Pilot Project. Site assessments were not performed under the initial award. Rather, existing data within the public domain was reviewed.

Page 33, Figure III-4

We believe it would be more relevant to graphically depict the SCPRIF process itself as the title of the figure conveys rather than attempt to illustrate activities that may or may not occur after the loan. We suggest entries such as "Pre-application", "SCPRIF Advisory Board Review", "Application", "SCPRIF Advisory Board recommends action to DECD Commissioner", "SCPRIF Loan Granted", "Receipt of Grant", "Investigations Completed", "Loan Repayment/Loan Forgiveness", etc. be arranged in flow chart fashion. DECD staff or the SCPRIF Advisory Board would be willing to assist the Committee's staff with this graphic.

Page 39, Findings and Recommendations

In paragraph three, the Report states, "The program review committee believes the challenge in the next four years is to improve existing programs by clarifying procedures and necessary financial resources as outlined in this chapter."

The SCPRIF Advisory Board has experienced first hand the lack of a comprehensive approach to Brownfields in Connecticut. A program is needed with designated staff to assist municipalities on a one-on-one basis in understanding the complexities of redevelopment, not just characterizing a potentially contaminated site.

We need to move toward redevelopment to create jobs, improve neighborhoods and strengthen tax bases. Characterization is but one step. Time after time we see public and private parties looking for a remedial action plan before knowing the site's marketability. If

Michael L. Nauer, Director
Legislative Program Review and Investigations Committee
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will bring the highest economic return in the form of taxes, payroll, and jobs. We will continue to use criteria that places emphasis on these elements.

And finally, we do hope that the Bond Commission approves our funding request within the next month. We are beginning to accept pre-applications on a monthly basis and, with less than \$200,000 remaining in the fund, we have reached a critical juncture.

Thank you again for the opportunity to submit our comments. Please contact us if you require additional information.

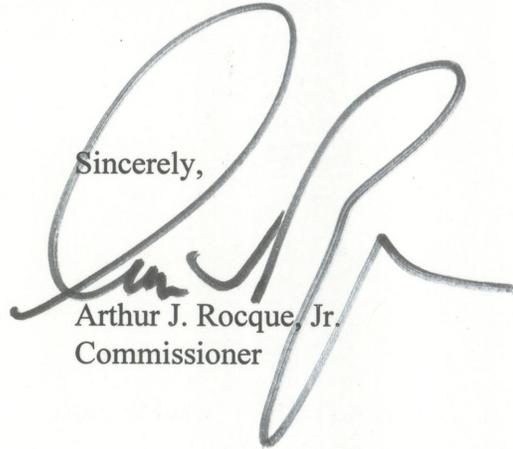
Thank you for the opportunity to comment on the Legislative Program Review and Investigations Committee's draft final report on Brownfields in Connecticut. The report includes an accurate and thorough depiction of the Department of Environmental Protection's programs to encourage the remediation and redevelopment of contaminated properties in Connecticut.

As is evident in this report, the DEP has substantially revised our programs over the last five years to reduce the number of obstacles that municipalities, developers and owners of contaminated or potentially contaminated property must overcome to successfully clean up and redevelop such properties in the state. We are proud of that effort. We agree that one of the last significant steps that the Department must undertake in this process is to finish a guidance document on the investigation of contaminated sites. While there is currently a guidance document available entitled "The Transfer Act Site Assessment Guidance Document", both licensed environmental professionals and their clients will benefit from a substantial expansion and updating of that document. However, taking into consideration the amount of work yet to be done on that guidance and the need to coordinate closely with the Licensed Environmental Professional community, a more realistic time frame for completing the document is July 1st rather than March 15th as recommended in your draft final report. It is, of course, our intention to make completing this guidance a high priority for the Department.

While we don't disagree with your committee's recommendation that the state's financial assistance for brownfields in the short term be focused more heavily on site assessments, we feel that it is important for the legislature to address the distinction between the state's role in funding remediation at sites where there is no viable responsible party and the assessment of such sites. We certainly welcome the recommendation for additional funding for the Urban Site Remedial Action Program. However, the committee's recommendation for an additional three million dollars in funding for that program would, if approved by the legislature, allow DECD and DEP to work on only one additional significant redevelopment project where the responsible party is assetless, or potentially a few smaller ones. Such funding would extend this important and successful program for, at best, an additional year but not for both assessment and remediation activities. We, therefore, recommend that the legislature determine the best mechanism for addressing funding the remediation of abandoned sites with significant economic or community development potential.

I wish to extend our thanks and appreciation to the committee staff who prepared this report. It was a pleasure working with them.

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several loops and a long, sweeping tail that extends downwards and to the right.

Arthur J. Rocque, Jr.
Commissioner

AJR/EBP/

B-14