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HR 5310 - Brownfields Reauthorization Act of 2010

Demonstrated Success

By any measure the EPA Brownfields Program has been invaluable tool, successfully cleaning contaminated sites, while also supporting responsible growth, and revitalization of existing communities. Brownfields investments are working, creating vibrant new community places and replacing lost jobs and taxes on sites where closed industrial plants have left a legacy of blight and contamination. EPA's impact data indicates that brownfields investments have produced:

- 14,600 properties assessed;
- \$12.8 billion in cleanup and redevelopment dollars leveraged (an 18-to-1 leverage ratio)
- 60,200 jobs accommodated in existing developed areas;
- 33 to 57 percent reductions in vehicle miles traveled relative to sprawl development patterns;
- 44 to 88 percent reductions in runoff relative to sprawl development patterns.

Pallone-Sestak Bill Reauthorizes and Enhances the EPA Brownfields Program

The original authorization of the EPA Brownfields Program expired at the end of 2006. The Pallone-Sestak bill will renew the program, but, more importantly, it will create additional and more flexible tools for communities working to redevelop impaired sites and brownfield-impacted neighborhoods.

1. Raise Funding Levels and Project Ceilings to Meet Needs

A recent Northeast-Midwest Institute report estimated that only 1.4 percent of all brownfield sites were being cleaned up annually. With an estimated 450,000 to one million contaminated sites still impacting communities, federal investments should be increased to more closely reflect the need. Cleanup funding ceilings should be raised in order to help address larger and more difficult sites.

- ***Increase Total Brownfield Grant Program Funding*** – The bill increases overall EPA funding for brownfields grants, beginning with \$350 million in FY11 and increasing by \$50 million annually to a total of \$600 million in FY16 and beyond. Funding under the 128(a) assistance to the states program is also increased to \$120 million in FY16.
- ***Increase Cleanup Grant Amounts*** – The bill raises the ceiling on cleanup grants to \$750,000 per site. Up to \$1.5 million is possible under “special circumstances.”

2. Encourage Creative Tie-Ins Between Brownfields, Sustainable Development, and Energy

Brownfields redevelopment represents an opportunity to re-position key parcels, while moving communities toward more sustainable development patterns. Brownfield sites also represent opportunities to boost renewable energy production without impacting farmland and natural areas.

- ***Establish Pilots for Sustainable Reuse and Alternative Energy on Brownfields*** – The bill authorizes pilot grants, up to \$1.5 million per grantee, to demonstrate sustainable reuse, green buildings, alternative energy, and transit-oriented development. Pilots would allow use of funds for site assessments, cleanup, site planning, area and corridor sustainability planning, feasibility analysis, and engineering studies supportive of sustainable development projects.

3. Eliminate Eligibility Barriers for Non-Profits and for Sites Owned by Local Government

The brownfields program has not been “running on all cylinders” because of certain arbitrary program eligibility barriers. One of the missing engines has been that non-profits were not eligible for site

assessment and revolving loan fund grants. Another missing piece is that some publicly owned sites were eliminated from eligibility simply because the local government owned the site before the 2002 date-of-enactment.

- ***Establish that Non-Profits are Eligible for Assessment and RLF Grants*** – The bill establishes that non-profits and related community development entities are eligible to receive brownfields assessment and revolving loan fund grants
- ***Clarify Eligibility of Publicly-owned Sites Acquired Before 2002*** – The bill allows site assessments for publicly owned sites acquired before the 2002 date-of-enactment without the bona fide perspective purchaser test. For cleanup grants the bill allows a simpler eligibility test for sites acquired in the distant past, more than 30 years. It also allows the Administrator greater flexibility to approve grants for other properties acquired pre-2002, based on common sense indicators of due diligence and appropriate care.

4. Create More Flexibility for Communities to Address their Highest Priority Needs

In the past grantees have been boxed in by the program pigeon-holes of site assessments, cleanup grants, and revolving loans; and by the division between petroleum and hazardous substance grants. The overall productivity of the program has been less than it should have been because the funds available often did not match up with the highest priority needs.

- ***Establish Multi-Purpose Brownfield Grants*** – The bill allows eligible entities to have the option to apply for multi-purpose grants, up to \$1.5 million, that can be used for the full range of brownfield-funded activities (assessment, cleanup, revolving loan funds, and reuse planning) on an area-wide or community-wide basis.

5. Clarify That Local Governments Are Not Liable in Tax Foreclosure Acquisitions

For many local governments tax foreclosures are a primary tool for addressing vacant properties, including brownfields. Local governments have a degree of liability exposure in these actions because the CERCLA protections include the phrase “involuntary” to describe the protected activities. Tax foreclosure often involves affirmative steps which are not always considered “involuntary.”

- ***Eliminate the term “involuntary” in describing local government liability protections*** – The bill amends section 101(20) (D), removing the term “involuntary” relative to protected local government acquisition activities, such as tax foreclosures.

6. Enhance Assistance and Eliminate Barriers for Disadvantaged, Small/Rural Communities

Disadvantaged, small, and rural communities often lack the staff resources and expertise to take advantage of brownfields opportunities. Many smaller/more rural communities and non-profits have been dissuaded from making applications because they cannot charge administrative/indirect costs to the grant.

- ***Offer EPA Staff for Disadvantaged Communities, Small Communities, and Rural Communities*** – The bill authorizes EPA to provide loaned federal staff (through the Intergovernmental Personnel Act) to small, disadvantaged, and rural communities that need support to build local capacity to cleanup and revitalize brownfields.
- ***Allow Funding for Reasonable Indirect Costs for Local Brownfields Programs*** – The bill allows brownfield grant recipient to be allowed to use up to 10 percent of their grant to cover reasonable indirect/administrative costs, such as rent and utilities.
