
INTRODUCTION

How to Use This Book

Due to the complicated nature of brownfields issues, overcoming brownfields problems means different things to different people. This book was written as both a guide and a resource manual for stakeholders in the brownfield redevelopment process. The complexity of addressing barriers to brownfield redevelopment stems, in part, from the large number of professional disciplines necessary to tackle brownfield projects. Therefore, this book was developed to provide both information and strategic advice to assist parties to hurdle the barriers precluding brownfield redevelopment. This book also offers an in-depth look at existing state voluntary cleanup programs.

The book is divided into four parts. Part I explains critical background information to put the “brownfields issue” in context. Part II details the most important legal, business, financial, and political issues associated with redeveloping contaminated real estate. This section offers insight into key issues and strategic advice from experts in various disciplines regarding effective approaches to managing environmental liabilities on a proactive basis. It provides a template for getting the brownfields deal done. Part III discusses both the basic science and the emerging concepts involved in risk-based science used to address contaminated property appropriately and cost effectively. Finally, Part IV offers a detailed look at the most important elements of each state voluntary cleanup program enacted as of the time of this publication. Parts I–III are designed to be read “cover to cover” and will provide the reader with not only essential information important to understanding the issues, but also strategic advice toward addressing the problems posed by contaminated real estate. Part IV was not intended to be read cover-to-cover. Rather, this section of the book should serve as critical reference material and offers tremendous insight into any particular state voluntary cleanup program of interest to the reader. Additionally, Part IV of the book may be used to compare one state’s voluntary cleanup program with that of another state.

The state voluntary cleanup program chapters were drafted to highlight important issues particularly relevant to a developer of contaminated real estate, including the following:

- citations to relevant statutes and regulations;
- properties/entities eligible for the program;
- properties/entities excluded from the program;
- existence of any memorandum of agreement for a particular program with U.S. EPA;
- liability protections afforded to lenders, trustees/fiduciaries, prospective purchasers, and other program participants;
- financial incentives available to facilitate redevelopment;
- articulated cleanup standards applicable to sites participating in the voluntary cleanup program;
- availability of risk assessment and institutional and engineering controls as acceptable approaches to remediation;
- statutory protections against admissibility/discovery based on voluntary cleanup or voluntary investigation;
- general description of criteria for participating in the voluntary cleanup program and necessary fees and certifications;
- description of the general process for obtaining covenants not-to-sue and other liability protections, including anticipated timeframes for achieving program milestones;
- new causes of action created by voluntary cleanup program statutes for cost recovery associated with participating in such programs; and
- practical experience with the relevant state programs, including the number of sites securing liability releases, the general level of program vibrancy, and pending or suggested changes to improve the program.

A flowchart depicting the general process for participating in any particular state's voluntary cleanup program is included at the end of each state's chapter.

This book is intended to function as a practical reference for persons interested in participating in this quickly evolving and innovative approach to environmental liabilities. The authors also intend to update and supplement the book periodically to keep readers abreast of the latest developments, new laws, and strategies for practically addressing environmental liabilities. *As this area of environmental law continues to develop at a rapid pace, the reader should carefully check the status of any particular program, law, or regulation described in the book before relying on the accuracy of any particular reference.*