

**AGENCY OF NATURAL RESOURCES  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WASTE MANAGEMENT AND PREVENTION DIVISION**

**GUIDELINES FOR CERTIFICATION OF BROWNFIELD PREFERRED SITES**

**APRIL 2018**

Public Utility Commission Rule 5.100 defines a “preferred site” to include “land certified by Secretary of the Agency of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642”.

“Brownfield site” means real property, the expansion, redevelopment, or reuse of which may be complicated by the release or threatened release of a hazardous material. It does not include properties where there is a court ordered requirement to remediate the property.

Hazardous materials are hazardous substances listed under CERCLA, petroleum, hazardous wastes, and other materials listed by the Agency of Natural Resources (Agency).

Persons who own property where a hazardous material has been released are legally liable for the investigation of how the environment has been impacted by that release and how the hazardous material should be remediated.

Lessees may be treated as owners for purposes of cleanup liability depending on the duration and nature of the lease.

The rules that govern this process are referred to as the Investigation and Remediation of Contaminated Properties Rule (IRule).

A person responsible for remediating a contaminated property may voluntarily remediate their site under the supervision of the Agency, enter the statutory brownfield cleanup program, or be subject to an enforcement action.

Brownfield sites enrolled in the BRELLA program (statutory program that provides liability limitations) are investigated and remediated pursuant to a statutory program and also receive preference for funding assistance.

In order for the Agency to certify a site as a Brownfield site, one of the following must be met:

1. The property is enrolled, will be enrolled, and/or has completed the statutory brownfields program (BRELLA). If the applicant has completed the BRELLA process they must be in receipt of a Certificate of Completion (COC);
2. The applicant demonstrates how the renewable energy project, either in whole or in part, may be complicated by the release or threatened release of a hazardous material; or
3. The Brownfield property includes a renewable energy project that is a part of a larger development, and the development as a whole may be complicated by the release or threatened release of a hazardous material.

With respect to defining what constitutes “complicated” for purposes of Brownfields status, the applicant is required to demonstrate how the site may be complicated with respect to each of the following: (a) environmental liability concerns; (b) financial barriers to development; (c) cleanup considerations; and (d) reuse planning.