

**U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 4  
BROWNFIELDS SITE ELIGIBILITY DETERMINATION OUTLINE**

*To be used for determining site eligibility for Phase II Environmental Site Assessments and Cleanups.*

**A. GENERAL INFORMATION**

1. Grantee/Targeted Brownfields Assessment (TBA) Applicant Name:
2. Grant/Applicant Type: Assessment, Cleanup, Revolving Loan Fund (RLF), Multipurpose, or TBA?  
If a Grant, provide the Grant Number:
3. Work to be conducted: Assessment, Cleanup or Other  
If other, please explain:
4. Provide the amount of funding estimated to be spent on the site:  
*(Assessments are limited to \$200,000 per site<sup>1</sup>unless a waiver is approved up to \$350,000. RLF subgrant cleanups are limited to \$200,000 per site. Multipurpose grant cleanups are limited to the amount in the EPA-approved budget.)*
5. Date of proposed work:
6. Name and title of person completing the form:
7. Date Submitted to EPA:

**B. BASIC SITE INFORMATION**

1. Site Name and ACRES ID if available:
2. Site Address (and County):
3. Name of the current owner of the site:  
  
If the grantee/applicant does not own the site, describe their relationship with the owner, and the owner's role in the work to be performed:
4. Identify the operational history and how the site became contaminated and to the extent possible describe the nature and extent of contamination. If the land has been vacant for many years, why does the grantee/applicant think that it is contaminated?

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<sup>1</sup> Per the Cooperative Agreement Terms and Conditions, the Cooperative Agreement Recipient is responsible for ensuring that EPA's Brownfields assessment funding received under this cooperative agreement, or in combination with any other previously awarded Brownfields Assessment cooperative agreements does not exceed the \$200,000 funding limitation for an individual brownfield site. Waiver of this funding limit for a brownfield site must be approved by EPA prior to the expenditure of funding exceeding \$200,000. In no case may EPA funding exceed \$350,000 on a site receiving a waiver.

5. Identify the current use(s) of the site.

### **C. SITES NOT ELIGIBLE FOR FUNDING BY STATUTE**

1. Is the facility listed (or proposed for listing) on the National Priorities List?  
 YES  NO
2. Is the facility subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued to or entered into by parties under CERCLA?  
 YES  NO
3. Is the facility subject to the jurisdiction, custody, or control of the US government? (Land held in trust by the US government for an Indian tribe is eligible.)  
 YES  NO

*If the answer is YES to any of the above (C.1-3) the property is **not** eligible, stop here.*

### **D. SITES ONLY ELIGIBLE WITH A PROPERTY SPECIFIC DETERMINATION BY EPA:**

1. Is the site/facility subject to a planned or ongoing CERCLA removal action?  
 YES  NO
2. Has the site/facility been the subject of a unilateral administrative order, court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties, or been issued a permit by the U.S. or an authorized state under the Solid Waste Disposal Act (as amended by the Resource Conservation and Recovery Act (RCRA)), the Federal Water Pollution Control Act (FWPCA), the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act (SWDA)?  
 YES  NO
3. Is the site/facility subject to corrective action orders under RCRA (sections 3004(u) or 3008(h)) and has there been a corrective action permit or order issued or modified to require corrective measures?  
 YES  NO
4. Is the site/facility a land disposal unit that has submitted a RCRA closure notification under subtitle C of RCRA and is subject to closure requirements specified in a closure plan or permit?  
 YES  NO
5. Has the site/facility had a release of polychlorinated biphenyls (PCBs) that is subject to remediation under TSCA?  
 YES  NO
6. Has the site/facility received funding for remediation from the leaking Underground Storage Tank (LUST) Trust Fund?  
 YES  NO

*If the answer is YES to any of the above (D. 1-6), a property specific determination is required. The grantee/applicant must provide further explanation for why Brownfields financial assistance is needed and how it will protect human health and the environment **and** will either promote economic development **or** the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes.*

## **SITE CONTAMINATION TYPE – HAZARDOUS SUBSTANCE AND/OR PETROLEUM**

A site can have one of four conditions for purposes of Brownfields funding classifications – it may be a (1) hazardous substance site, (2) a petroleum site, (3) a site where there exists both hazardous substances and petroleum distributed in such a manner as to be too difficult to apportion the assessment or cleanup between the two media, and (4) a site containing both hazardous and petroleum where the contaminants are distinct and separate. These distinctions are important and determine which EPA Brownfields funds are legally permitted to be used in the assessment and/or cleanup processes.

1. A hazardous substances site can only be assessed and/or cleaned up using hazardous substance funds.

If the site is primarily contaminated with hazardous substances, **complete Section E**. There may also be some minimal petroleum contamination present. “Minimal” petroleum contamination suggests there were no Underground or Above-ground Storage ST or AST installations at the property. There may be, or may have been, small hydraulic lifts used for automotive repair, or hydraulic elevators. Operations may have resulted in spills of small quantities of fuels, lubricating oils and there may be abandoned, oil-filled transformers or other oil-filled equipment at the site. The petroleum contamination is minimal and it does not matter if the nominal petroleum contamination is commingled or segregated, the site is a hazardous substance site and the grantee/applicant should **complete Section E. for Hazardous Substances sites**.

2. A petroleum site can only be assessed and/or cleaned up using petroleum funds.

A site with unused petroleum product remaining in underground and/or aboveground tanks and/or where petroleum product has been released from tanks, drums, piping, dispensers, railcars, or tank trucks to the environment is a petroleum site and the grantee/applicant should **complete Section F**. This is typically the case where there are or have been AST or UST installations. There may also be some minimal hazardous substance contamination remaining on site. “Minimal” hazardous substance contamination suggests that former site operations did not include significant commercial or industrial processes that could have resulted in large quantities or widespread hazardous substance contamination. There may be relatively small quantities of hazardous substance contamination resulting from spilled cleaning solvents, lead-based paints, asbestos-containing materials such as floor tiles or dry wall joint compound, and so forth. It does not matter if the nominal hazardous substance contamination is commingled or segregated, the site is a petroleum site and the grantee/applicant should **complete Section F for Petroleum Contamination Sites**

3. A site containing both hazardous substances and petroleum contamination, where they are indivisible (or nearly so) for purposes of assessment and/or cleanup must be considered a hazardous substances site for purposes of funding and the grantee/applicant should **complete**

**Section E.** This is often called a “commingled” site because the contaminants are commingled and not readily separated for purposes of assessment and/or cleanup.

A commingled site is characterized by the presence of both hazardous substances and petroleum contaminants in such a manner that they cannot be readily separated for purposes of assessment and/or cleanup. This is often the case where the facility used or stored oil products and used or generated hazardous substances in relatively close proximity so that releases of these contaminants became more or less a common contaminant. These properties must be addressed as a hazardous substances site and the grantee/applicant should **complete Section E for Hazardous Substances Sites.**

4. And finally, a site where there are both hazardous substances and petroleum contamination but where the location and distribution of sources and contamination are distinct and lend themselves to ready assessment and/or cleanup is a site where both hazardous substances and petroleum funding can be used on their respective sources and contamination and the grantee/applicant should **complete both Sections E and F.**

Many sites have experienced releases of hazardous substances and petroleum products but these releases may be separated by distance and/or by operations which took place at the facility. There may be an above ground tank farm on one portion of the site, underground storage tanks in another area, and hazardous substances handled or generated or released in yet other areas. The point is that the contaminants are separate and may be assessed and/or cleaned up independent of one another. Grantees/applicants with a property where the contaminants are readily defined and segregable must **complete both sections E and F.**

5. Identify which type of known or suspected contamination is present (check one):
  - Hazardous Substances (Complete Section E) - this includes hazardous substance sites that may also have relatively insignificant petroleum contaminants present
  - Petroleum Contaminants (Complete Section F) - this includes petroleum sites that may also have relatively insignificant hazardous substances present
  - Hazardous Substances and Petroleum (Complete both Section E and F)
6. If the site is either  Mine Scarred Lands or  Controlled Substances skip to Section G.

## **E. HAZARDOUS SUBSTANCE SITES** *(for Petroleum only sites, skip to F)*

Answer the following E.1-9 if the grantee/applicant is the current site owner. If the grantee/applicant does not own the site, skip to 10.

1. How was the property acquired?
  - Negotiated purchase
  - Foreclosure
  - Donation
  - Eminent Domain
  - Other (Explain):
2. What is the date that the grantee/applicant acquired the property?
3. Provide the name/identity of the party from whom the grantee/applicant acquired ownership:

4. Provide information about any familial, contractual, corporate, or financial relationships or affiliations the grantee/applicant has or had with all prior owners or operators (or other potentially responsible parties) of the property:
5. Did all disposal of hazardous substances at the site occur before the grantee/applicant acquired the property? Did the grantee/applicant cause or contribute to any release of hazardous substances at the site? Did the grantee/applicant arrange for the disposal of hazardous substances or transport of hazardous substances to the site?  
 YES  NO *If the answer is YES, the property is **not** eligible, stop here.*
6. Did the grantee/applicant take reasonable steps<sup>2</sup> with regards to the contamination at the site?  
 YES  NO *If the answer is NO, the property is **not** eligible, stop here.*
7. Did the grantee/applicant take property ownership or control through seizure or otherwise in connection with law enforcement activity, or through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government acquired title by virtue of its function as sovereign?  
 YES  NO
8. Did the grantee/applicant conduct a Phase I Environmental Site Assessment or All Appropriate Inquiry investigation in compliance with ASTM standards or other) prior to acquiring property?  
 YES  NO
9. If the grantee/applicant does not qualify as BFPP, but is a public entity, acquired the property prior to January 11, 2002, and did not cause or contribute to the contamination, the grantee/applicant can be eligible for an EPA brownfields grant. Does this situation apply?  
 YES  NO

*If the answer is NO to all three of the previous questions (7 – 9), the property is **not** eligible, stop here.*

Answer the following if the grantee/applicant is not the site owner:

10. Is the grantee/applicant potentially liable at the site as an  Operator,  Arranger  Transporter?  
 YES  NO *If the answer is YES, the property is **not** eligible, stop here.*
11. Is the grantee/applicant affiliated with the site owner (familial, contractual, financial)?  
 YES  NO *If the answer is YES, this site requires discussion with your EPA Project Officer.*

## **F. PETROLEUM CONTAMINATION SITES**

If the state has made the petroleum eligibility determination, the grantee/applicant must provide EPA with the letter or email from the state. States may apply their own laws and regulations to petroleum eligibility determinations.

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<sup>2</sup> Reasonable steps for owners of brownfields are to stop continuing releases; prevent threatened future releases; and prevent or limit human, environmental, or natural resource exposure to earlier hazardous substance releases.

If the state was unable to make the determination, EPA will make the determination consistent with the most recent Proposal Guidelines for Brownfields Assessment or Cleanup Grants, based on the information provided by the grantee/applicant below.

1. Has the owner (regardless whether the site is owned by the grantee/applicant) acquired the site through tax foreclosure, abandonment, or equivalent government proceedings?  
 YES  NO
  
2. Has a responsible party been identified through?
  - a. a judgment rendered in a court of law or an administrative order that would require any party to assess, investigate, or cleanup the site;  
 YES  NO
  
  - b. an enforcement action brought by federal or state authorities that would require any party to assess, investigate, or cleanup the site;  
 YES  NO
  
  - c. a citizen suit, contribution action or other third party claim against the current or immediate past owner, that would, if successful, require that party to assess, investigate, or clean up the site.  
 YES  NO

*If the answer is YES to question 1, and NO to questions 2 a-c, skip to question 7.*

3. Has the **current owner** done any of the following:
  - a. dispensed or disposed of petroleum or petroleum product at the site?  
 YES  NO
  
  - b. owned the property during the dispensing or disposal of petroleum product at the site?  
 YES  NO
  
  - c. exacerbated the contamination at the site?  
 YES  NO
  
  - d. did not take reasonable steps with regard to contamination at the site,  
 YES  NO

*If the answer is YES to any of these questions (3a – d), skip to question 6.*

4. Provide the name of the **immediate past owner**:  
Has the **immediate past owner** done any of the following:
  - a. dispensed or disposed of petroleum or petroleum product at the site?  
 YES  NO
  
  - b. owned the property during the dispensing or disposal of petroleum product at the site?  
 YES  NO

c. exacerbated the contamination at the site?

YES  NO

d. did not take reasonable steps with regard to contamination at the site,

YES  NO

*If the answer is YES to any of these questions (4a – d), skip to question 6.*

5. If the **grantee/applicant is not the current or immediate past owner**, has the grantee/applicant done any of the following:

a. dispensed or disposed of petroleum or petroleum product at the site, or owned the property during the dispensing or disposing of petroleum?

YES  NO

b. exacerbated the contamination at the site?

YES  NO

*If the answer is NO to any of these questions (5a – d), skip to question 7.*

6. While it has been determined there is a responsible party by answering YES to any of questions 3 -5 in this section, does the current/immediate owner or grantee/applicant have adequate financial resources to pay for assessment of the site (a viable party)?

YES  NO *If YES, the site is not eligible. If "NO", provide an explanation for this conclusion.*

7. Is the site subject to a corrective action order issued under Resource Conservation and Recovery Act Section 9003(h) for releases from leaking underground storage tanks?

YES  NO *If YES, the site is not eligible.*

## **G. BROWNFIELDS DEFINITION**

Based on the information presented on this form, the grantee/applicant believes that the:

Site meets the definition of an EPA Brownfields site

## **H. ACCESS**

Does grantee/applicant have access or an access agreement for this property?

YES  NO

**I. SITE ELIGIBILITY DETERMINATION BY EPA PROJECT OFFICER**

If there are any questions on eligibility the EPA Project Officer should consult with the Regional Brownfields Coordinator, and as necessary EPA legal counsel.

SITE IS /  SITE IS NOT eligible for EPA Brownfields Funds

\_\_\_\_\_  
EPA Project Officer

\_\_\_\_\_  
Date: