



# EPA Region 10 Brownfield Site Eligibility Worksheet

Updated: February 27, 2024

This worksheet is intended for EPA Region 10 Brownfield Cooperative Agreement Recipients (CARs, referred to as “grantee”) as an aid for determining site eligibility. Brownfield funding can only be used at a site that meets the EPA definition of a Brownfield site (CERCLA § 101(39)) and meets all other eligibility requirements. While this worksheet outlines many factors to be considered in determining eligibility, it does not capture all requirements. For additional information, please refer to the EPA Brownfield website, “Information on Sites Eligible for Brownfields Funding under CERCLA § 104(k)” at <https://www.epa.gov/sites/default/files/2018-10/documents/web-content-info-on-site-eligibility.pdf>.

Grantees are encouraged to submit the completed worksheet to their EPA Brownfield Project Manager. EPA will review the worksheet and may require additional information. The grantee should contact their EPA Brownfield Project Manager if there are any questions.

Compliance with EPA Brownfield Cooperative Agreement Terms & Conditions: Any site-specific work completed with EPA Brownfields funding must comply with all Cooperative Agreement Terms and Conditions including federal cross-cutting requirements, quality assurance requirements, and all applicable local, state, federal, and Tribal laws including requirements to report releases. Please see your cooperative award document Terms & Conditions and contact your EPA Brownfield Project Manager with questions.

Updating the Worksheet - please note: The worksheet should be updated and resubmitted when additional assessment, cleanup, or planning activities are planned at the site and as new information becomes available or conditions of the property change. Changes to property ownership, type of contamination found, recognized environmental contaminants identified, reuse plans, and leveraged funding are examples of information that should be documented using this worksheet, as site eligibility may be affected.

<b>Grantee Name:</b>	
<b>Date submitted to EPA:</b>	
<b>Cooperative Agreement # with Program Code (example: BF-01J55501):</b>	
<b>Date of proposed work:</b>	

**Grant type:**

- Assessment  
 Cleanup  
 Revolving Loan Fund  
 Multipurpose  
 State and Tribal Response Program

The requested activity will be completed by, or on behalf of (provide name if applicable):

<input type="checkbox"/>	Revolving Loan Fund Subgrantee or Loan Recipient:	
<input type="checkbox"/>	Assessment Coalition Member:	
<input type="checkbox"/>	Other:	

**Activity requested:**

- Phase I Assessment  
 Phase II Assessment  
 Site-specific Planning  
 Cleanup  
 Other\*

Explain activity(ies) requested and provide cost estimate for each activity requested:

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*\*Community-wide (area-wide) planning activities should include a Brownfield impacted area, but they are not considered a site-specific effort and do not require submittal of an eligibility worksheet. The grantee should check with the EPA Project Manager about eligible planning activities. More information can be found here: <https://www.epa.gov/brownfields/information-eligible-planning-activities>*

**Known or Suspected Contaminant(s):**

- Hazardous Substance(s)  
 Petroleum  
 Co-mingled\*

*\*Co-mingled/Distinguishable: If the site is co-mingled with both hazardous substances and petroleum contamination AND the hazardous substances and petroleum-contaminated areas of the site are distinguishable, select "Co-mingled," "Hazardous Substances," and "Petroleum," then respond to both eligibility criteria in Sections C and D below.*

*\*Co-mingled/Indistinguishable: If the hazardous substances and petroleum-contaminated areas of the site are co-mingled and not easily distinguishable, select "Co-mingled" and select which contaminant type is predominant, then respond to the appropriate site eligibility criteria in Section C or D.*

## SECTION A - BASIC SITE INFORMATION

Complete this section for each site regardless of contamination type.

To support information provided below, provide a site map – this may be inserted at the end of Worksheet and/or provided as a separate attachment with same property name.

A.1) Property name:			
A.2) Property address:		Zip Code:	
A.3) City:		State:	
A.4) Cross street (if applicable):			
A.5) State Facility # (if applicable):			
A.6) Tax Lot Number(s) and County:			
A.7) Site Description (acreage, dimensions, GPS coordinates, etc.):			
A.8) ACRES ID:		Not yet in ACRES:	<input type="checkbox"/>

A.9) Who is the current property owner\*:

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*\*If one or more underground storage tank (UST) is the source of the petroleum contamination, identify the current and immediate past owner of the UST(s)*

If applicable:

- Tribal Grantees - select if the property is land held in Trust by the US Government.
- Tribal Grantees - select if the land is within the reservation boundaries but not held in Trust.
- Alaska Grantees - select if the property was conveyed through the Alaska Native Claims Settlement Act (ANCSA)

Explanation/Comments:

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A.10) Describe your relationship with the owner and their role in the work to be performed:

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**A.11) Does the grantee have access to, or an access agreement for, this property?**

Yes    No    Copy of Signed Agreement Attached

If no, explain how and when access will be acquired:

**A.12) Explain why you are proposing the property for assessment or cleanup.** What is the desired reuse? Is there a prospective purchaser interested in the property? Is the transaction time sensitive? Include any other details that you believe to be relevant.

**A.13) Describe the history of activities that have been conducted on the property** and indicate generally the dates (if known) of when such activities took place. Identify when and how the property became/may have been contaminated; with what substance(s); the areas of the property that are contaminated; and describe previous known uses. If the land has been vacant for many years or contamination is only suspected, explain why you think it needs assessment or cleanup.

**A.14) If known, describe any site assessment or cleanup activities that have already been conducted.** If you are planning to do follow-on assessment (e.g., a Phase II after a Phase I), please include a summary of the previous assessment efforts and findings, and explain why you are doing additional work at the site.

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## SECTION B - GENERAL ELIGIBILITY

Complete this section for each site regardless of contamination type.

### B.1) Definition of a Brownfield Site

CERCLA defines a "Brownfield Site" as: "...real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant."

(42 USC 9601 (39), CERCLA 101.39) Brownfield sites include residential, commercial, and industrial properties that may have environmental contamination and may be vacant or underused.

CERCLA also identifies three additional types of properties that are specifically eligible for funding:

1. Sites contaminated by controlled substances.
2. Sites contaminated by petroleum or a petroleum product.
3. Mine-scarred lands.

Affirm that the site meets the definition of a brownfield by checking this box.

Explanation/Comments:

### B.2) Sites Not Eligible for Brownfields Funding under CERCLA

- a) Is the property listed on the National Priority List (NPL) or identified as part of a larger Superfund site under a different name?

Yes  No

- b) Is this property located within the boundaries of Superfund site?

*Note: If yes, or unsure, check with your EPA Project Manager to determine whether or not it is a contributor.*

Yes  No

- c) 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

- d) Is the facility subject to the jurisdiction, custody, or control of the U.S. Government?

*Note: Land held in trust by the U.S. Government for an Indian Tribe does not fall under this exclusion and is eligible.*

Yes  No

Explanation/Comments:

**B.3) Other Prohibitions under CERCLA 104(k)(5)(B)**

Affirm that none of the site-specific work is being performed in order to comply with any of the items listed below:

104(k)(5)(B) PROHIBITION -- No part of a grant or loan under this subsection may be used for the payment of:

- (i) a penalty or fine;
- (ii) a Federal cost-share requirement;
- (iii) a response cost at a brownfield site for which the recipient of the grant or loan is potentially liable under section 107; or
- (iv) a cost of compliance with any Federal law (including a Federal law specified in section 101(39)(B)), excluding the cost of compliance with laws applicable to the [assessment or] cleanup.

Explanation/Comments:

**B.4) Sites Only Eligible for Funding with a Property-Specific Determination by EPA**

*The following special classes of properties require a "Property-Specific Determination" from EPA to be eligible. EPA's approval of a Property-Specific Determination will be based on whether or not funding this project will protect human health and the environment and either promote economic development or enable the property to be used for parks, greenways, and similar recreational or nonprofit purposes. For additional information, you may also refer to the EPA Brownfield website, "Information on Sites Eligible for Brownfields Funding under CERCLA § 104(k)" at*

<https://www.epa.gov/sites/default/files/2018-10/documents/web-content-info-on-site-eligibility.pdf>

- a) Is the site/facility subject to a planned or ongoing CERCLA removal action?  
 Yes    No    Unsure
  
- b) Has the site/facility been subject to an order or consent decree, or 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 (SDWA)?  
 Yes    No    Unsure
  
- c) Is the site/facility subject to corrective action orders under RCRA (sections 3004(u) or 3008(h))?  
 Yes    No    Unsure
  
- d) 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    Unsure
  
- e) Has the site/facility had a release of polychlorinated biphenyls (PCBs) that is subject to remediation under TSCA?  
 Yes    No    Unsure
  
- f) Is the site currently receiving funding for remediation from the Leaking Underground Storage Tank (LUST) Trust fund?  
 Yes    No    Unsure

Explanation/Comments:

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## SECTION C - HAZARDOUS SUBSTANCE PROPERTIES

Complete this section based on your response to “known or suspected contaminant” on page 1. Skip to Section D if the property is a petroleum site.

### C.1) Grantee

- a) Does the grantee own the site?

Yes  No

AND If applicable, does the Revolving Loan Fund Subgrantee, Loan Recipient, or Assessment Coalition Member own the site?

Yes  No

*Note: Grantees may assess hazardous substances sites (or co-mingled sites where hazardous substances and petroleum contamination is not easily distinguishable and hazardous substances are the predominant contaminant) which they do not own where there is a substantial public benefit or other compelling reason to use public funds for assessment, even when the owner may be considered a potentially responsible party. In such cases, EPA recommends documenting the rationale for doing so.*

Explanation/Comments:

- b) Has the grantee ever owned, leased, used, accessed, or otherwise conducted or directed activities on the property?

Yes  No

AND If applicable, has the Revolving Loan Fund Subgrantee, Loan Recipient, or Assessment Coalition Member owned, leased, used, accessed, or otherwise conducted or directed activities on the property?

Yes  No

- i) Have any of these activities contributed to contamination?

Yes  No

- ii) Did all disposal of hazardous substances at the site occur before the property was acquired?

Yes  No

- c) Did the grantee generate or transport any waste brought to the site?

Yes  No

AND If applicable, did the Subgrantee or Coalition Member generate or transport any waste brought to the site?

Yes  No

*Note: Grantees cannot use EPA funds to conduct assessment or cleanup activities at sites where they operated, generated, or transported hazardous substances.*

d) Is the grantee affiliated with the liable, or potentially liable party?

Yes  No

AND If applicable, is the Revolving Loan Fund Subgrantee, Loan Recipient, or Assessment Coalition Member affiliated with the liable, or potentially liable party?

Yes  No

Explain if you answered "yes" to questions C.1.b-d:

## C.2) CERCLA Liability

**Complete this section only if the grantee owns the property. If the grantee does not own the property, skip to section "D" or "E" as appropriate.**

### a) CERCLA Liability Defense

If the grantee owns the property, indicate whether one of the following bases for determining that the grantee is not potentially liable as an owner under Section 107(a) of CERCLA applies. These exemptions or defenses are reviewed in conjunction with responses to other sections.

*Note: Because current owners of contaminated property are potentially liable under CERCLA, the grantee must demonstrate that they are not a liable party by establishing that they meet the requirements of one of the liability protections or defenses set forth in CERCLA. For more information on these liability protections, please refer to the EPA website "Enforcement and Liability at Brownfield Sites" at <https://www.epa.gov/enforcement/addressing-liability-concerns-support-cleanup-and-reuse-contaminated-lands>.*

Choose one:

- The grantee is a recognized Tribal government entity and is exempt from demonstrating they meet the requirements of a CERCLA liability defense.
- The grantee acquired the property without knowledge of contamination (Innocent Landowner - CERCLA §101(35)(A)(i)). The grantee satisfies Bona Fide Prospective Purchaser (BFPP) protection (CERCLA §§101(40) and 107(r)).
- The grantee satisfies Contiguous Property Owner protection for migrated contamination (CERCLA §107(q)).
- The grantee is a state or local government entity that acquired the property through seizure or otherwise in connection with law enforcement activity, or through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government acquires title by virtue of its function as a sovereign (CERCLA §101(20)(D)).
- The grantee is a public entity (such as a state or local government) and satisfies the requirements in CERCLA § 104(k)(2)(C) in which the publicly owned property was acquired prior to January 11, 2002 provided the grantee did not cause or contribute to the release or threatened release of a hazardous substance at the property.

*(Per CERCLA § 104(k)(3)(E), if an applicant that is a public entity (such as a state or local government) acquired property prior to January 11, 2002, the applicant is eligible for a Brownfields Grant (or Loan) and may use grant funds to address contamination at the property, even if the entity does not qualify as a bona fide prospective purchaser, provided the applicant did not cause or contribute to the release or threatened release of a hazardous substance at the property. – FY24 Cleanup Guidelines, III.C.12.a.ii.1. (p. 23))*

- The grantee is an Alaska Native Village Corporation or Alaska Native Regional Corporation that acquired title to the property from the U.S. Government under the Alaska Native Claims Settlement Act (ANCSA) and is exempt from CERCLA liability for contamination that was located at the property prior to conveyance under ANCSA, provided that the grantee did not cause or contribute to the release or threatened release of a hazardous substance. (CERCLA §101(20)(E))

Explain how the grantee qualifies for the defense selected above:

**b) All Appropriate Inquiry (AAI)**

- i) Has the owner conducted All Appropriate Inquiry (AAI)? See CERCLA 101(35)(B)

Yes  No

Explain:

- ii) When was the property acquired?

- iii) What is the date of the Phase I report?

Phase I "Shelf Life" – For properties acquired on 11/1/06 or later, one of the following must apply:

- The Phase I was conducted within 180 days prior to property acquisition; OR  
 The Phase I was conducted within 1 year of acquisition AND an updated report is dated within 180 days prior to acquisition.

- iv) Indicate which Phase I standard was used to conduct AAI?

- ASTM E1527-21 (sites purchased after 2/13/23)  
 ASTM E2247-16 (sites purchased after 3/14/18 that qualify as Forestland or Rural property)  
 ASTM E1527-13 (sites purchased between 12/30/13 and 2/12/24)  
 ASTM E2247-08 (sites purchased between 3/23/09 and 3/14/18 that qualify as Forestland or Rural property)  
 ASTM E1527-05 (sites purchased between 11/1/05 and 10/6/15)  
 ASTM E1527-97 or E1527-00 (sites purchased between 5/31/97 and 11/1/06)  
 Pre-5/31/97 purchaser standard as outlined in CERCLA §101(35)(B)(iv)(I)

**c) Reasonable Steps and Continuing Obligations**

i) Has the owner taken reasonable steps with respect to hazardous substance releases at the site?

Yes    No    Not Applicable

If yes, confirm the reasonable steps taken by clicking next to each action and explaining below:

Stop any continuing releases;

Prevent any threatened future releases;

Prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substances

Explain reasonable steps taken:

ii) Has the owner complied with all land use restrictions and not impeded the effectiveness or integrity of institutional controls since acquiring the property?

Yes    No    Not Applicable

iii) Has the owner provided full cooperation, assistance, and access to persons who are authorized to conduct response actions or natural resources restoration?

Yes    No    Not Applicable

iv) Has the owner complied with information requests and administrative subpoenas?

Yes    No    Not Applicable

v) Has the owner provided legally required notices?

Yes    No    Not Applicable

Explanation/Comments:

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## SECTION D - PETROLEUM CONTAMINATION SITES

Complete this section if you selected petroleum under “known or suspected contaminants” on page 1. Skip to Section E if your site is not a petroleum site.

Do you have a State determination letter attached?

Yes  No

*All petroleum sites need a written determination of eligibility by the State Environmental Agency or EPA based on the answers to Section D. Please answer these questions AND attach the State determination (if applicable). The determination must address the petroleum eligibility criteria outlined in the brownfields grant guidelines. States may apply their own laws and regulations to make the petroleum site determination (applicable for all program determinations). If they do so, please provide their determination and rationale. See link at the top of this document for additional information.*

Explanation/Comments:

### D.1) “A Site for Which There is No Viable Responsible Party”

The State or EPA will have to determine that there is no viable responsible party using the following criteria.

- a) Was the site last acquired through tax foreclosure, abandonment, or equivalent government proceedings (including conveyance under the Alaska Native Claims Settlement Act)?

Yes  No

Explain if you answered “yes”:

- b) Has a responsible party been identified through:
- i) A judgment rendered in a court of law or an administrative order that would require any party to assess, investigate, or clean up the site?  
 Yes  No
  - ii) A filed enforcement action brought by federal or state authorities that would require any party to assess, investigate, or cleanup the site?  
 Yes  No
  - iii) A citizen suit, contribution action or other 3rd 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

Explain if you answered “yes” to any of the above:

- c) Has the current owner done any of the following:
- i) Dispensed or disposed of petroleum or petroleum product at the site?  
 Yes    No
  - ii) Owned the property during the dispensing or disposal of petroleum product at the site?  
 Yes    No
  - iii) Exacerbated the contamination at the site?  
 Yes    No
  - iv) Taken reasonable steps with regard to contamination at the site?  
 Yes    No

Explain if you answered "yes" to any of the above, including describing the reasonable steps taken:

- d) Who is the immediate past owner?

*Note: If one or more underground storage tank (UST) is the source of the petroleum contamination, identify the current and immediate past owner of the UST(s)*

- e) Has the immediate past owner done any of the following?
- i) Dispensed or disposed of petroleum or petroleum product at the site?  
 Yes    No
  - ii) Owned the property during the dispensing or disposal of petroleum product at the site?  
 Yes    No
  - iii) Exacerbated the contamination at the site?  
 Yes    No
  - iv) Taken reasonable steps with regard to contamination at the site?  
 Yes    No

Explain if you answered "yes" to any of the above, including describing the reasonable steps taken:

- f) Based on the above, for purposes of brownfield funding, is there a responsible party?  
 Yes    No

Explain:

- g) If answer to f ) is yes, is that party viable (has adequate financial resources to pay for assessment of the site)?  
 Yes    No

Explain:

*The petroleum site is ineligible if there is a viable responsible party. If there is no responsible party, or if there is a responsible party who is not viable, continue.*

**D.2) “Cleaned Up by a Person Not Potentially Liable”**

The State or EPA must also determine that the site will be cleaned up by a person not potentially liable. This applies to cases where the grantee is not the current owner.

- a) Has the grantee ever:  
i) Exacerbated the contamination at the site?  
 Yes    No

Explain:

- ii) Dispensed or disposed of petroleum or petroleum product at the site?  
 Yes    No

Explain:

- iii) Explain how the grantee/applicant took “reasonable steps” with respect to the contamination:

**D.3) Sites Not “Subject to a RCRA Corrective Action Order”**

- a) Is the site “subject to any order issued under Sec. 9003 (h) of the Solid Waste Disposal Act?”  
 Yes    No

Explain if you answered “yes”:

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## SECTION E - SITE ELIGIBILITY DETERMINATION

Complete your eligibility determination based on the information you provided. Eligibility worksheets prepared by contractors or partner organizations must be reviewed, approved, and submitted by the grantee.

### Grantee Determination\*

- The Site is eligible for EPA Brownfields Funds.
- The Site is eligible for EPA Brownfields Funds but requires EPA Property-Specific Determination.

If requiring a property-specific determination (Section B.2.), explain below (or in a separate attached document): (1) why Brownfield financial assistance is needed; and (2) how the proposed activities will protect human health and the environment and 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:

Submitted by:

<b>Grantee Project Manager or Staff Designee:</b>	
<b>Grantee Organization:</b>	
<b>Date:</b>	

List any attachments that are being included to support your determination:

- Map attached with property boundaries outlined

### EPA REVIEW RESULTS

- EPA accepts the grantee's determination that the site is eligible for brownfield funding.
- EPA has determined that the site is not eligible for Brownfield funding.
- The site would be excluded from the definition of a Brownfield site in 101(39)(B) but EPA has determined the site is eligible for funding per 101(39)(C) based on the information provided by the requestor.
- EPA does not have sufficient or appropriate information to accept the grantee's determination.

Comments:

<b>EPA Project Manager:</b>	
<b>Date of Review:</b>	

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**X** *Sarah Frederick*

EPA Project Manager

For EPA Project Manager use – As applicable, provide details on additional site factors considered such as other federal actions, named contributor to a Superfund site, etc.:

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**SITE MAP**

Insert site map below and/or provide as a separate attachment with same property name.