

**U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 9**  
**BROWNFIELDS HAZARDOUS SUBSTANCE SITE ELIGIBILITY DETERMINATION CHECKLIST**

☐ **HAZARDOUS SUBSTANCE SITES:** a site primarily contaminated with hazardous substances; includes mine-scarred lands or sites contaminated with controlled substances.

**CO-MINGLED SITE QUESTIONS**

Are hazardous substances and petroleum co-mingled at the site?

☐ YES ☐ NO

Are the hazardous substances and petroleum-contaminated areas easily distinguishable from each other?

☐ YES ☐ NO ☐ N/A

**If the areas are easily distinguishable from each other:** fill out both site eligibility checklists (i.e., both the petroleum site eligibility checklist and the hazardous substances site eligibility checklist). If the areas are not easily distinguishable from each other, fill out only the checklist for the predominant substance/contaminant.

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**Brownfields Site Eligibility Evaluation:** *This document is based on EPA guidance and applicable law, and is meant as a tool to help EPA staff. Nothing in this document is intended to supplement or supersede EPA guidance or applicable law. A determination of eligibility for purposes of the Brownfields program does not guarantee the non-liability of the grantee under applicable law.*

*The grantee/applicant should provide answers to the following questions to the best of their knowledge.*

**A. GENERAL INFORMATION**

1. Grantee Name:
2. Grant/Applicant Type:  
☐ Phase I Assessment ☐ Phase II Assessment ☐ Revolving Loan Fund (RLF) ☐ Multipurpose
  - If a Grant, provide the Grant Number:
3. Name and title of person completing this form:
4. Date Submitted to EPA:

**B. BASIC SITE INFORMATION**

1. Site Name:
2. Site Address (including 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:

to enter text.

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? [Click or tap here to enter text.](#)
5. Identify the current use(s) of the site. [Click or tap here to enter text.](#)
6. Does the site meet the definition of a “brownfield site,” as defined under CERCLA at 42 U.S.C. § 9601(39)?  
☐ YES ☐ NO
7. Does grantee/applicant have access to (or an access agreement for) this property?  
☐ YES ☐ NO

### 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 U.S. government?  
☐ YES ☐ NO ☐ N/A (This question is not applicable for land held in trust by the U.S. government for an Indian tribe.)

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 federal 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 Clean Water Act, the Toxic Substances Control Act (TSCA), or the Safe Drinking Water Act?  
☐ 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. Does the site/facility include a land disposal unit for which a closure notification under subtitle C of RCRA has been submitted and closure requirements have been 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 obtained assistance / funding for response activity (e.g., 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. Consult with your Project Officer.***

## **E. HAZARDOUS SUBSTANCE SITES**

Answer E.1-7 if the grantee/applicant is the site owner. If the grantee/applicant does not own the site, skip to E.8.

1. How was the property acquired? ☐ Purchase ☐ Foreclosure ☐ Donation ☐ Eminent Domain  
☐ Other (Explain): [Click or tap here to enter text.](#)
2. What is the date when the grantee/applicant acquired the property? [Click or tap here to enter text.](#)
3. Provide the name/identity of the party or parties from whom the grantee/applicant acquired ownership:  
[Click or tap here to enter text.](#)
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: [Click or tap here to enter text.](#)
5. 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 to either question, the property is not eligible, stop here.***
6. Did the grantee/applicant take reasonable steps<sup>1</sup> with regards to the contamination at the site?  
☐ YES ☐ NO If YES, describe the steps taken. [Click or tap here to enter text.](#) ***If the answer is NO, the property is not eligible, stop here.***
7. Defenses to Liability - The site must meet one of the following conditions:

☐ Involuntary Acquisition: The grantee/applicant is a unit of local government who acquired the site through seizure or otherwise in connection with law enforcement activity, or through bankruptcy, tax delinquency, abandonment, or other circumstances by virtue of its function as sovereign.

Nature of Acquisition: [Click or tap here to enter text.](#)

☐ Bona Fide Prospective Purchaser: The grantee/applicant conducted a Phase I Environmental Site Assessment or other All Appropriate Inquiry investigation in compliance with ASTM standards prior to

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<sup>1</sup> “Reasonable steps” generally means exercising appropriate care with respect to hazardous substances found at the property by taking reasonable steps to: stop any continuing release; prevent any threatened future release; and prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance. *Enforcement Discretion Guidance Regarding Statutory Criteria for Those Who May Qualify as CERCLA Bona Fide Prospective Purchasers, Contiguous Property Owners, or Innocent Landowners* (“Common Elements”) (EPA July 29, 2019), Attachment B: Reasonable Steps and Categories.

<https://www.epa.gov/sites/default/files/2019-08/documents/common-elements-guide-mem-2019.pdf>

acquiring property. Provide the date of AAI Phase I or describe the All Appropriate Inquiry investigation:  
[Click or tap here to enter text.](#)

☐ Publicly-Owned Brownfields: The grantee/applicant is an eligible public entity (as defined at 42 U.S.C. § 9604(k)(1)(A)-(H)) who acquired the property prior to January 11, 2002, and did not cause or contribute to a release or threatened release of a hazardous substance at the property.

Explain: [Click or tap here to enter text.](#)

***If the site does not meet any of the scenarios in question 7, the property is not eligible, **stop here.*****

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

8. Is the grantee/applicant potentially liable at the site as an: ☐ Operator, ☐ Arranger, or ☐ Transporter?  
☐ YES ☐ NO ***If the answer is YES, the property is not eligible, **stop here.*****
9. Is the grantee/applicant affiliated with the site owner (familial, contractual, financial)?  
☐ YES ☐ NO ***If the answer is YES, explain below; this site may require discussion with your EPA Project Officer.*** [Click or tap here to enter text.](#)

#### **F. SITE ELIGIBILITY DETERMINATION BY EPA PROJECT OFFICER**

The EPA Project Manager should consult with the regional Site Eligibility lead before finalizing. For complex eligibility determinations and other appropriate situations, EPA brownfields staff should consult with EPA legal counsel.

☐ SITE IS / ☐ SITE IS NOT eligible for EPA Brownfields Funds

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USEPA Project Manager

\_\_\_\_\_  
Date