



CHAPTER SIX:

Environmental Cleanup Responsibilities

Chapter Summary:

The RLF program is intended to fund eligible cleanup activities at eligible Brownfield sites. EPA Regions should be aware that although the program allows for flexible use of funds to accommodate eligible programmatic and other costs, the funds are primarily intended to pay for actual cleanup of contaminants. Environmental cleanup can include, but is not limited to drainage or site security controls, capping of contaminated soils, or removal of bulk containers that may contain hazardous substances, among other actions. In addition, this chapter will cover the steps required in planning for, conducting, and completing an environmental cleanup, which must precede redevelopment. EPA anticipates that the majority of the cleanups will be performed through state VCPs.

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6.1 Pre-Cleanup Activities, Conducting a Site Assessment. The first step prior to any environmental cleanup is to conduct a site assessment. Because site assessments are not considered a cleanup activity, they are not eligible costs for RLF funds. However, limited sampling conducted as part of cleanup activities (i.e., confirmatory sampling) may be an eligible programmatic expense.

If environmental samples are to be collected as part of the brownfields cleanup (e.g., cleanup verification sampling, post-cleanup confirmation sampling), the recipient shall comply with 40 C.F.R. 31.45 (or 40 C.F.R. 30.45 requirements for non-profit organizations) requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. Alternatively, borrowers and/or subgrantees may need to comply with quality assurance requirements of state or tribal cleanup programs.

The first step in any environmental cleanup is to conduct site assessment and sampling activities, but these are not considered a part of the cleanup. However, limited sampling conducted as part of cleanup activities (i.e. confirmatory sampling) would be considered an eligible programmatic expense.

The law sets two different interim standards for conducting “all appropriate inquiry” that apply depending on the date the property was purchased. These standards will remain in effect until EPA promulgates final federal standards.

- **Properties purchased prior to May 31, 1997**, the law provides that a court shall consider the following when making a determination with respect to a defendant: specialized knowledge or experience of the defendant, relationship of the purchase price to the value of the uncontaminated property, obviousness of contamination, and the ability of the defendant to detect contamination by appropriate inspection.

Exhibit 6A – All Appropriate Inquiry

Exploring Options: All Appropriate Inquiry

On March 25, 2003, EPA took action to clarify provisions included in Section 223 of the Small Business Liability Relief and Brownfields Revitalization Act which amends Section 101 (35)(B) of CERCLA (42 U.S.C. § 9601 (35)) and clarifies interim standards for the conduct of “all appropriate inquiry” for obtaining CERCLA liability relief and for conducting site characterization and assessment with the use of brownfields grant monies.

The EPA Administrator signed EPA's Proposed Rule on “Standards and Practices for All Appropriate Inquiries” that was published in the Federal Register on August 26, 2004. The proposed rule would establish specific regulatory requirements for conducting all appropriate inquiries into the previous ownership, uses, and environmental conditions of a property for the purposes of qualifying for certain landowner liability protections under CERCLA. EPA developed the proposed rule using a Negotiated Rulemaking process, and accepted public comments for a period of 60 days. Depending on the extent of public comment, EPA may be able to issue a final rule early in FY 2005.

- **Properties purchased after May 31, 1997**, the law requires the use of procedures developed by the American Society for Testing and Materials (ASTM), in particular ASTM's standard E1527-97, or "Standard Practice for Environmental Site Assessment Process." In the final rule "Clarification to Interim Standards and Practices for All Appropriate Inquiry Under CERCLA and Notice of Future Rulemaking Action (May 9, 2003)," EPA establishes that the current ASTM standard, E1527-00, will also meet the "all appropriate inquiry" requirement for site characterizations and assessments.

Phase I/Phase II assessment may provide most of the information necessary for the recipient to determine whether an RLF cleanup is appropriate. Borrowers and subgrantees are recommended to have their Phase II site assessment completed prior to submitting loan or subgrant applications. Phase I are procedures developed by the ASTM, in particular ASTM's standard E1527-97, or "Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process." In the final rule "Clarification to Interim Standards and Practices for All Appropriate Inquiry Under CERCLA and Notice of Future Rulemaking Action," EPA establishes that the current ASTM standard, E1527-00, will also meet the "all appropriate inquiry" requirement for the site characterizations and assessments.

6.2 Introduction to Environmental Cleanup. There are several steps involved in conducting an environmental cleanup. Both site-specific and general requirements will be specified in the terms and conditions of each cooperative agreement. This chapter reviews the basic steps in implementing an environmental cleanup.

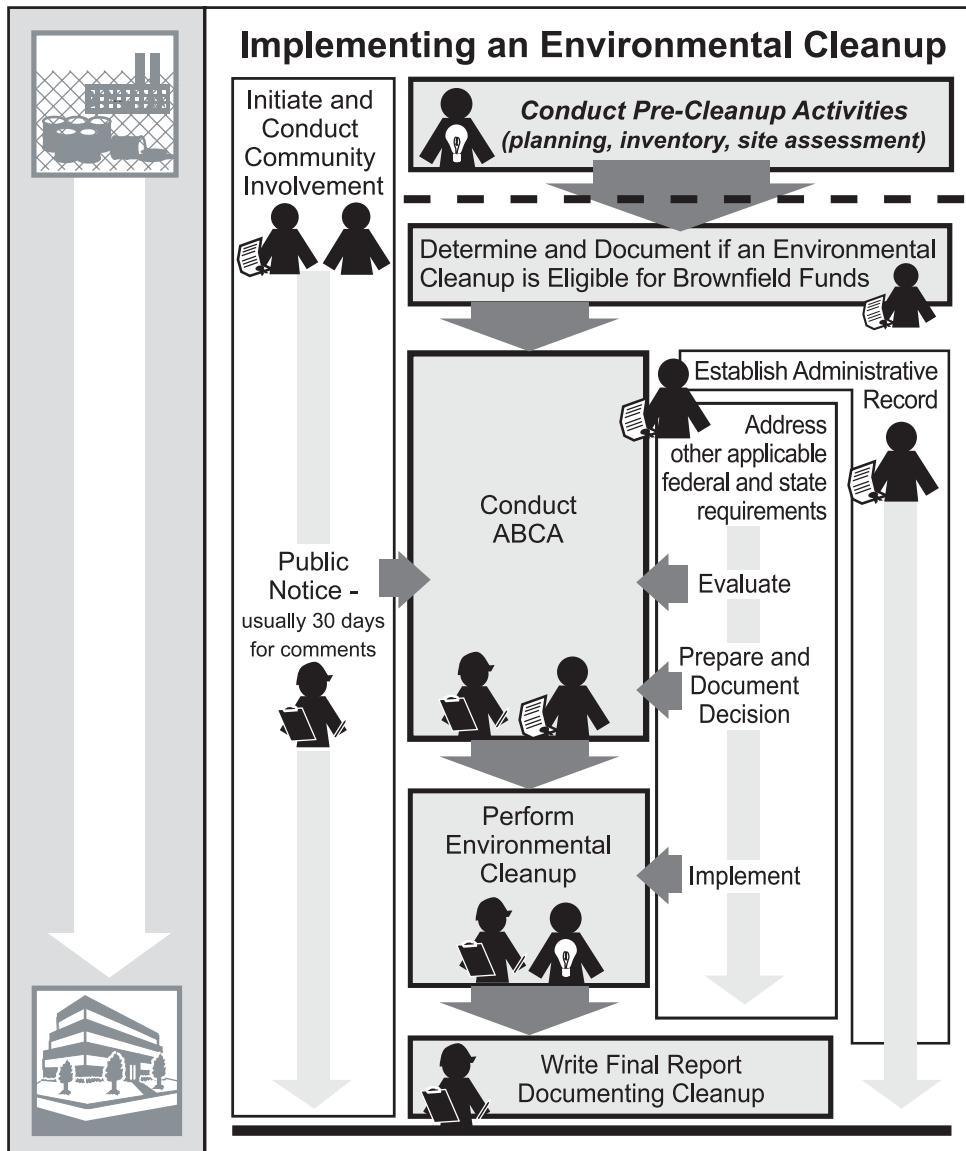
Brownfields grant funds must be spent in accordance with the Brownfields Law. As authorized in the law, EPA requires cleanup to be conducted in compliance with "relevant and appropriate" requirements of the National Contingency Plan (NCP) (an implementing regulation of CERCLA). EPA has identified certain NCP provisions that the RLF program is subject to as a whole. Other provisions pertain to specific sites. General and site-specific provisions will be outlined in each recipients' terms and conditions negotiated as part of their grant. The essential steps of an environmental cleanup (relevant and appropriate provisions of the NCP) that pertain to the entire RLF program will include:

- Determining and Documenting if an Environmental Cleanup is Eligible for Brownfields Funds;
- Conducting and Documenting Community Involvement;
- Establishing the Administrative Record;

- Conducting an Analysis of Brownfields Cleanup Alternatives (ABCA). This process includes choosing a cleanup method and documenting the cleanup decision with any significant comments received, and resulting changes made (if any);
- Meeting all Applicable Federal and State Environmental Laws;
- Performing the Environmental Cleanup (in a manner that is protective of human health and the environment); and
- Completing and Documenting the Environmental Cleanup.

The recipient is responsible for all provisions of the environmental cleanup and the recipient may in turn delegate portions of these actions to the borrower and/or subgrantee.

Exhibit 6B – Implementing an Environmental Cleanup



Environmental cleanup entails many steps. This chapter covers each step in detail.

6.3 Determining if an Environmental Cleanup is Eligible for Brownfield Funds.

Based on review of the recipient's determination of pre-cleanup site assessment and activities, EPA will ensure that the recipient meets the regulatory provisions for an environmental cleanup.

The recipient must determine that the environmental cleanup is eligible for brownfield funds, considering the site assessment and the statutory parameters governing RLF funds. The determination of site and project eligibility often coincides with deciding whether an authorized environmental cleanup is needed. To determine if an RLF environmental cleanup is eligible for brownfield funds, the recipient must:

- Determine and document that the site is an eligible Brownfields site;
- Determine that there is a presence or potential presence of a hazardous substance, pollutant, or contaminant; or is an additional area qualified to receive brownfields funding (see CERCLA § 101 (39)(D)) including controlled substances, petroleum, and mine scarred lands; and
- Determine that the borrower is eligible for RLF funds for the site at which they are applying, and if so, that they are applying for funding of eligible activities.

6.4 Conducting and Documenting Community Involvement. Recipients are required to involve the community in site cleanup. It is particularly important for the public to be informed of site activities and to provide input on site cleanup and plans for redevelopment. The public must also have the opportunity to comment on the various required documents drafted in preparation for the environmental cleanup and comments must be considered as part of the final cleanup decisions.



Create a forum for community discussion, such as a bulletin board or website.

Public participation is a critical component of developing a brownfields site redevelopment plan that designates the appropriate level of cleanup (i.e., industrial, commercial, or residential). Community involvement activities must be initiated at the grant application phase and occur throughout each environmental cleanup process. Final loan decisions must not be made prior to carrying out the required community and public involvement activities. The recipient must be able to change an RLF cleanup based on comments from the public or on any new information acquired by the recipient or borrower or subgrantee. RLF grant funds may be used to support community involvement activities as a programmatic cost.

All environmental cleanups require a site-specific community relations plan. Once the community has provided meaningful input regarding the desired type of land use for redevelopment, the next

step in initiating community involvement is to establish a site-specific community relations plan that includes:

- providing reasonable notice;
- opportunity for involvement; typically 30 days;
- response to comments (this may be documented in a Decision Memo or equivalent document as discussed in Section 6.2); and
- administrative records that are available to the public.

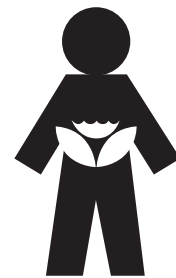
An important aspect of community involvement is allowing the public to comment on the document that evaluates different alternatives for cleanup at a site. This will be discussed more thoroughly in Section 6.6, *Conducting an Analysis of Brownfields Cleanup Alternatives (ABCA)*. After the ABCA is completed, the recipient must:

- Provide public notice of the availability of the ABCA. For example, the notice may be placed in a major local newspaper of general circulation, on the Internet, or similar measure to inform the general community and target area of the availability of the ABCA document for public review;
- Provide reasonable opportunity for written and oral comments on the ABCA. Upon timely request, extend the public comment period as needed; and
- Prepare a written response to significant and appropriate comments, and document any changes made to the cleanup plan.

Other activities that may be useful but may not be required in meeting community involvement requirements may include the following when appropriate:

- Conduct interviews with local officials, community residents, public interest groups, or other interested and affected parties. For information on how to conduct interviews, see EPA's Community Involvement Toolkit at: <http://www.epa.gov/superfund/tools/index.htm>.

The cooperative agreement terms and conditions will specify requirements.



*Submit a site-specific
Community Relations Plan
for each Brownfields site
to EPA for review.*

FAQs:

Q: Is a Community Relations Plan (CRP) required for each site?

A: Yes, a CRP is required for each site as specified in the terms and conditions and approved workplan.

Q: What is an administrative record?

A: The administrative record is a collection of documents (e.g., site eligibility determination, an analysis of reasonable alternatives, site assessment review, the cleanup plan, responses to public comments) explaining the actions taking place at a site and should be made available at a location convenient to the public.

6.5 *Establishing the Administrative Record.* The recipient is responsible for establishing an administrative record containing the information forming the basis for the selection of an RLF environmental cleanup plan.

The administrative record includes all site information submitted by the borrower or subgrantee including documents that form the basis for the selection of a cleanup. This may include appropriate sections of loan or subgrant documents necessary to ensure that cleanup requirements are met.

The administrative record must be available at a location convenient to the public, and available for inspection and must include:

- An analysis of brownfields cleanup alternatives (or equivalent) which will include information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup.
- For cleanup of brownfields petroleum-only sites, an analysis of cleanup alternatives must include considering a range of proven cleanup methods including identification of contaminant sources, exposure pathways, and an evaluation of corrective measures. The cleanup method chosen must be based on this analysis.
- A site-specific community relations plan, as discussed in Section 6.4, *Conducting and Documenting Community Involvement*.
- Response to public comments.
- Verification that shows that cleanups are complete.

Typical contents of the administrative record may include:

- Documents containing data and information that may form the basis for selection of a cleanup, including: sampling data, quality control and assurance documentation, chain of custody forms, site inspection reports, Phase I and Phase II assessment reports; and Agency for Toxic Substances and Disease Registry (ATSDR)

public health evaluations, and technical and engineering evaluations;

- Guidance documents, technical literature, and site-specific policy memoranda on the application of a specific regulation to a site, and memoranda on off-site disposal capacity;
- Enforcement orders, including administrative orders and consent decrees.

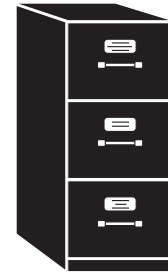
The cooperative agreement recipient may add documents to the administrative record file after the environmental cleanup plan is finalized. If:

- The documents concern a portion of a cleanup decision that was not previously addressed.
- The documents amend or contain an explanation of significant differences that form a basis for modifying the environmental cleanup.

The terms and conditions require the recipient to establish an administrative record and make it available for inspection. Those documents disclosed in the administrative record may be used to show an environmental cleanup is eligible for Brownfield funds.

The cooperative agreement recipient may consider comments submitted after the close of the public comment period for the ABCA, only to the extent such comments:

- Contain significant new information;
- Could not have been submitted during the public comment period; and
- Substantially supports the need to significantly alter the cleanup. All such comments and any recipient responses to such comments must be placed in the administrative record file.



The administrative record file is an element of public participation because it may be reviewed by the public, contains all public comments on the proposed environmental cleanup alternatives, and contains the borrower's responses to those comments.

FAQs: □

Q: How should a recipient address documents that contain confidential and/or privileged portions?

A: If the site is included under a state voluntary cleanup or response program, the recipient must consult with the state. If information that forms the basis for the selection of an environmental cleanup is included only in a document containing confidential or privileged information and is not otherwise available to the public, the information may be summarized in such a way that it may be disclosed to the public. This summary shall be placed in the publicly available portion of the administrative record file.

Q: What should a recipient do with documents or comments received after the RLF environmental cleanup has been selected?

A: If the site is included under a state voluntary cleanup program, the recipient must consult with the state. Documents generated or received after the RLF cleanup has been selected must be added to the administrative record file if the documents concern a portion of a cleanup decision that was not previously addressed in the action memo. In addition, documents that form a basis for modifying the environmental cleanup must be included.

Q: Is the borrower's financial information open to the public?

A: No. The borrower's financial information is not part of the administrative record. The Freedom of Information Act (FOIA) does not apply to documents that are solely in the possession of the recipient, borrower, or subgrantee. However, state, local, or tribal law may contain provisions that require disclosure to the public.

Q: Does the public have access to loan or subgrant information which the recipient provides to EPA?

A: Yes, to the extent allowable under FOIA.

6.6 Conducting an Analysis of Brownfields Cleanup Alternatives (ABCA). The recipient must conduct and document an analysis of cleanup alternatives (or equivalent), considering the site characteristics, surrounding environment, land-use restrictions, potential future uses, cleanup goals. This process requires providing public notice, documenting cleanup decisions, and preparing a decision memo or equivalent pursuant to state law.

Once it has been determined that the site is eligible for an RLF environmental cleanup and the recipient, borrower, and/or subgrantee has begun community involvement and an administrative record, target cleanup levels that are compatible with the desired redevelopment must be established. The recipient must perform an analysis of various alternative environmental cleanups for the site that meet the targeted cleanup levels. This analysis is known as an "analysis of brownfields cleanup alternatives" (ABCA). Its purpose is to ensure and document that the appropriate type of cleanup is selected to address the site.

The ABCA or its equivalent must include:

- Information about the site and contamination issues (i.e., exposure pathways, identification of contaminant sources, etc.);

cleanup standards; applicable laws; alternatives considered; and the proposed cleanup.

- Effectiveness, implementability and the cost of each alternative, including the preferred or proposed cleanup alternative. As part of the evaluation of effectiveness, discuss whether/how each alternative would achieve cleanup standards and applicable laws.
- A comparative analysis of the alternatives considered.
- For cleanup of brownfields petroleum-only sites, petroleum cleanup ABCA alternatives may be limited to no action and a single proven cleanup method that meets state and federal requirements.

The recipient can use information supplied by the potential borrower or subgrantee (e.g., an ASTM Phase I/Phase II assessment conducted during the site assessment) to start the ABCA. Additionally, the recipient must consider current land-use restrictions and potential future land-use needs in conducting this analysis because the chosen environmental cleanup can have an impact on the future uses of the site.

The recipient must assess whether additional land-use controls will be necessary after the environmental cleanup is complete. Such institutional controls include actions necessary to ensure the effectiveness and integrity of the environmental cleanup upon its completion.

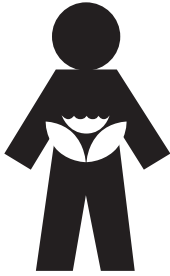
There are four types of land-use controls: private (or proprietary) controls, governmental controls, enforcement tools, and informational devices. The NCP uses the term “deed restriction” to refer to private controls. Private controls are the most commonly used land-use controls. Private controls include restrictive covenants, easements, and reversionary interests.

6.7 Meeting all Applicable Federal and State Laws. RLF funds are authorized by the Brownfields Law. The recipient must ensure that cleanups conducted with these funds attain or exceed the requirements of other federal and state laws.

The Brownfields Law requires that environmental cleanups meet all applicable federal and state laws (see CERCLA § 104(k)(9)(B)(i)(I)). Applicable federal and state environmental standards may address a particular hazardous substance, pollutant, contaminant, action, location, or other site-specific issue. The requirements are applicable because they address some site-specific aspect of the environmental cleanup. Identification and evaluation of applicable federal and state laws should occur throughout the environmental cleanup selection process. Regions should encourage the recipient to work with the state and EPA to identify applicable federal and state laws. Any applicable laws that are

addressed should be listed in the ABCA. In addition to CERCLA § 104(k), applicable federal laws and requirements include:

- **Davis-Bacon Act of 1931** - CERCLA § 104(g) requires that borrowers and subgrantees comply with the prevailing wage rate requirements under the Davis-Bacon Act of 1931 for construction, repair or alteration contracts “funded in whole or in part” with funds provided under the RLF agreement. The recipient must ensure that the borrower or subgrantee obtains recent and applicable wage rates from the U.S. Department of Labor and incorporate them into the construction, alteration or repair contract.
- 40 C.F.R. 31 and OMB Circular A-87 for governmental recipients of subgrants or 40 C.F.R. 30 and OMB Circular A-122 for non-profit recipients of subgrants and 40 C.F.R. 30 and OMB Circular A-21 for educational institutions recipients of subgrants.
- Executive Order 13202 (Feb. 22, 2001, 66 Fed. Reg. 11225) of February 17, 2001, entitled “Preservation of Open Competition and Government Neutrality Towards Government Contractors’ Labor Relations on Federal and Federally Funded Construction Projects,” as amended by Executive Order 13208 (April 11, 2001, 66 Fed. Reg. 18717) of April 6, 2001, entitled “Amendment to Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors’ Labor Relations on Federal and Federally Funded Construction Projects.
- Federal cross-cutting requirements including, but not limited to, MBE/WBE requirements found at 40 C.F.R. 31.36(e) or 40 C.F.R. 30.44(b); OSHA Worker Health & Safety Standard 29 C.F.R. 1910.120; the Uniform Relocation Act; Historic Preservation Act; Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 C.F.R. 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333) the Anti Kickback Act (40 USC 276c) and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.



State voluntary cleanup or response programs can offer liability and enforcement protection incentives, oversight assistance, and ensure protective site cleanup.

6.8 *Performing the Environmental Cleanup (in a manner that is protective of human health and the environment)*. After the ABCA has been signed, the actual cleanup can be performed by contractors through a state or tribal voluntary cleanup or response program. The recipient, borrower, and subgrantee have options for performing the actual site cleanup.

Recipients must consider the use of state voluntary cleanup programs (VCPs) or other state cleanup programs in implementing their cleanup. Regions should encourage recipients to contact the appropriate state environmental department for information.

Specific examples of cleanup activities are listed below:

- Installation of fences, warning signs, or other security or site control precautions;
- Installation of drainage controls;
- Stabilization of berms, dikes, or lagoons (e.g., impoundments, drainage, closing);
- Capping of contaminated soils;
- Using chemicals and other materials to retard the spread of the release or mitigate its effects;
- Excavation, consolidation, or removal of contaminated soils;
- Removal of drums, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants, including petroleum;
- Removal of source materials, including free product recovery;
- Containment, treatment, or disposal of hazardous materials and petroleum contamination;
- Cap, fill, contour or regrade and vegetate mine scarred lands and tailing piles;
- Cleanup or decontaminate drug labs; and
- Immediate provision of alternative water supply, where necessary, to reduce exposure to contaminated household water and continuing until such time as local authorities can satisfy the need for a permanent remedy.

Recipients and qualified environmental professionals (QEPs) can ensure the adequacy of each RLF cleanup as it is implemented by conducting confirmatory sampling. Confirmatory sampling should show that the established cleanup levels and other applicable requirements will be or have been met or additional cleanup activity is warranted.

Exhibit 6C – State Voluntary Cleanup Programs

Exploring Options: State Voluntary Cleanup Programs (VCPs)

EPA has worked closely with states to encourage cleanups of brownfields sites. State voluntary cleanup programs encourage private parties to clean up contaminated properties by limiting or nullifying state liability. States typically set the eligibility requirements for participation in voluntary cleanup programs, establish cleanup standards, and provide oversight of cleanup activities. EPA anticipates that the majority of RLF cleanups will be performed through state VCPs. VCP programs vary considerably from state to state in terms of formality and structure. Currently, 49 states implement VCPs.

Recipients must consider whether they will require borrowers or subgrantees to conduct cleanups under a state VCP. The recently enacted amendments to CERCLA encourage the use of state VCPs. CERCLA § 128 (b) provides limitations regarding federal enforcement actions at “eligible response sites,” as defined in CERCLA § 101(41), that are being addressed in compliance with a state program that (1) specifically governs cleanup actions for the protection of public health and the environment and (2) maintains and updates a public record, pursuant to CERCLA § 128(b)(1)(c). The RLF recipient is encouraged to contact their state VCP to discuss the benefits RLF borrowers may gain by enrolling in a state VCP. If the recipient chooses not to require borrowers and subgrantees to participate in a state cleanup program, then the recipient is required to consult with EPA on each loan or subgrant to ensure the proposed cleanup is protective of human health and the environment. If the state has not formally established regulations for a cleanup program, then the recipient is required to consult with the EPA concerning the cleanup to ensure protectiveness of human health and the environment.

Each loan or subgrant agreement should contain terms and conditions that allow the recipients to change environmental cleanup activities as necessary. In some situations, the planned environmental cleanup may fail to fully address the threats at a site, or new threats may be discovered. If the selected cleanup will not fully address threats posed by releases, or a borrower or subgrantee is unable or unwilling to complete the cleanup, the recipient must ensure that the site is secure and poses no immediate threat to human health or the environment. The recipient also must notify the appropriate state agency and EPA to ensure an orderly transition to other appropriate cleanup activities.

In addition, recipients must consider whether they are required to have borrowers or subgrant recipients conduct cleanups under a State or Tribal response program. If the recipient chooses not to require borrowers and subgrant recipients to participate in a State or Tribal response program, then the recipient is required to consult with the EPA on each loan or subgrant to ensure that the proposed cleanup is protective of human health and environment.

If the State or Tribe does not have a promulgated Response Program, then the recipient is required to consult with the Environmental Protection Agency (EPA) to ensure protectiveness of human health and environment.

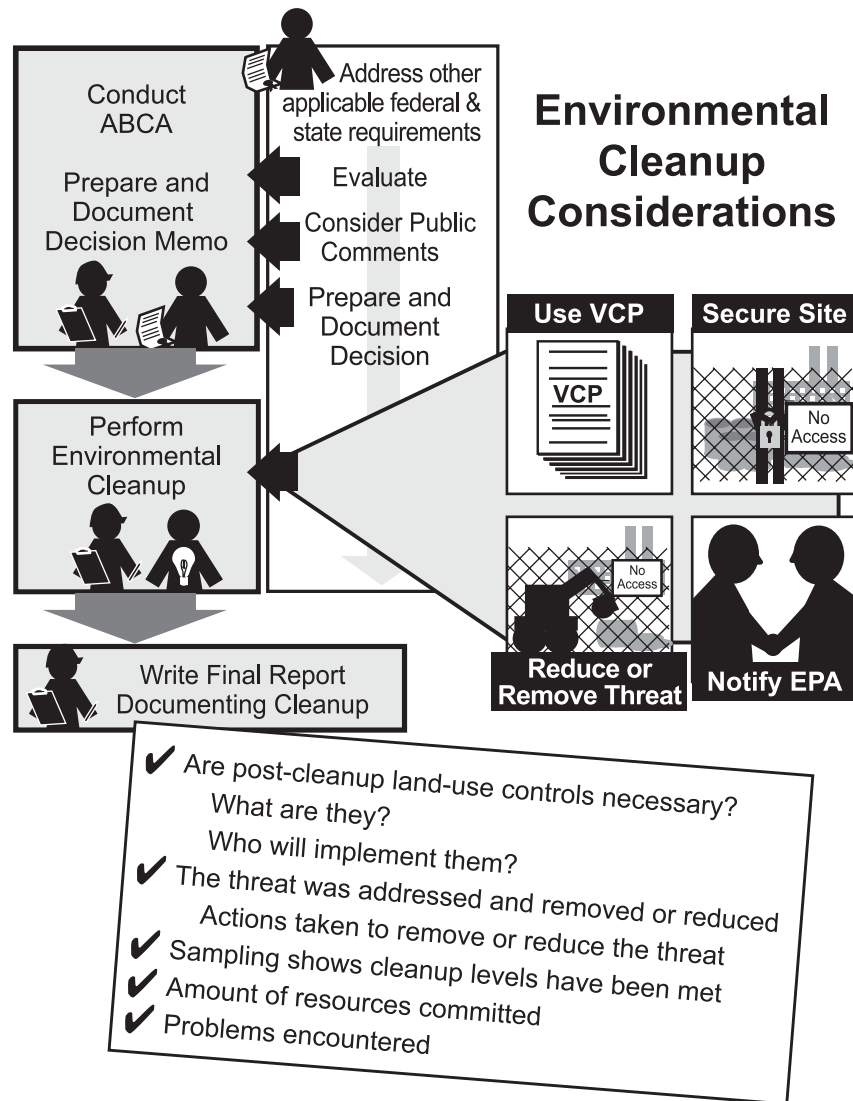
6.9 *Completing and Documenting the Environmental Cleanup.* After the RLF environmental cleanup is completed, the borrower or subgrantee must formally document the activities conducted. This must be done through a final report or letter, or other documentation provided by a state or Tribe that shows cleanups are complete. This document needs to be included as part of the administrative record.

At the completion of an RLF cleanup, the recipient must prepare a report on the cleanup operation and actions taken. The report should contain the following items:

- Documentation of cleanup actions taken and any modifications made to the cleanup plan;
- Documentation that the actions that were taken met the cleanup level targets established in the action memo;
- Documentation of confirmatory sampling that shows cleanup levels have been met;
- Documentation of the resources committed; and
- Documentation of any problems encountered.

The cleanup completion documentation should be reviewed by the recipient and their QEP for concurrence. EPA must ensure that the recipient requires their borrowers and/or subgrantees to update their property profile and quarterly reports to reflect the completion of cleanup activities.

Exhibit 6D – Environmental Cleanup Considerations



FAQs: _____

Q: What happens in the event that a project funded by an RLF loan or subgrant must be terminated?

A: In the event that a project must be terminated, the recipient is required to secure the site to ensure public safety, and inform EPA and the state. This means limiting access to the site to only those with authorization and ensuring that contaminants do not pose an imminent and substantial endangerment to human health or the environment. In addition, EPA has the authority to recover RLF loan or subgrant funds as necessary.



Chapter 6 Check List: *Environmental Cleanup Responsibilities*

EPA Regions must ensure that the recipient recognizes its environmental cleanup responsibilities. This checklist may be used by EPA Regions to assist recipients. It is recommended that recipients use this checklist to ensure that all requirements in the environmental cleanup process are met and that all appropriate steps toward the implementation of a site cleanup are taken. **All mandatory required cleanup activities are noted with an asterisk. Other activities are recommended but not required.** Note that this checklist does not include site evaluations because they are not considered part of the RLF-funded process.

While the checklist uses specific terms, EPA anticipates that the majority of the cleanups will be performed through state VCPs. As such, the state programs may call these documents by different names. It is EPA's intent that documents generated to meet the state's voluntary cleanup program requirements can serve to meet the mandatory requirements listed below as long as they cover the same elements and include the necessary information.

I. Determine whether the environmental cleanup is authorized based on the site evaluation and other relevant information about the site. The environmental cleanup is authorized if all these provisions apply:

- *The site and borrower or subgrantee are eligible for RLF funds.
- *RLF cleanup activities at a particular site are authorized by CERCLA § 104(k).

II. Establish Community Involvement

- *All cleanup activities require a site-specific community relations plan or its equivalent that includes providing reasonable notice, opportunity for involvement, response to comments, and administrative records that are available to the public.
- Submit the completed CRP to EPA for review.

Upon completing the ABCA:

- *Publish a notice of availability of the ABCA or its equivalent (may include notice of administrative record) to inform the general community.
- *Provide opportunity for written and oral comments.
- *Provide a written response to significant and appropriate comments, and document any changes made to the cleanup plan.

III. Establish an Administrative Record

- Include in the Administrative Record:
 - *An analysis of reasonable alternatives (as appropriate for hazardous substances or petroleum sites).
 - *Site investigation reports.
 - *The cleanup plan.
 - *Cleanup standards used.
 - *Response to public comments.
 - *Verification that shows that cleanups are complete.

IV. Conduct an Analysis of Brownfields Cleanup Alternatives (ABCA)

- *The recipient must conduct an analysis of brownfields cleanup alternatives, considering the site characteristics, surrounding environment, land-use restrictions, potential future uses, and cleanup goals.

The ABCA must include:

- Information about the site and contamination issues (e.g., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup.
- Effectiveness, implementability, and the cost of the proposed cleanup.
- An analysis of reasonable alternatives including no action. For cleanup of brownfields petroleum-only sites, an analysis of cleanup alternatives must include considering a range of proven cleanup methods including identification of contaminant sources, exposure pathways, and an evaluation of corrective measures. The cleanup method chosen must be based on this analysis.
- An explanation of why the environmental cleanup is authorized.
- *An authorized representative of the recipient has signed the ABCA.

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**Chapter 6 Check List** *(Continued from previous page)***V. Meet all Other Applicable Federal or State Laws (including but not limited to)**

- *Ensure compliance with the Davis-Bacon Act of 1931.
- *Ensure compliance with other applicable federal and state laws.
- *Coordinate with appropriate state or tribal and local agencies and organizations.
- *Contact Natural Resource Trustees, as appropriate.

VI. Perform the Environmental Cleanup

- *Recipients must consider the use of state voluntary cleanup or response programs.
- *If not in a state voluntary cleanup program, consult with EPA on cleanup levels that are protective of human health and the environment.
- If the RLF project loan or subgrant is terminated, the recipient must:
 - *Ensure that the site is secure and poses no immediate threat to human health or the environment.
 - *Notify the appropriate state agency and EPA to ensure an orderly transition to other appropriate cleanup activities.

VII. Completing and Documenting the Environmental Cleanup

- Assess whether land use controls will be necessary.
- *Prepare a Final Report on the cleanup operation and actions taken, documenting:
 - That the situation was addressed.
 - The actions that were taken.
 - Sampling shows cleanup levels were met.
 - The resources committed.
 - Any problems encountered.