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# Appendices Contents

Appendix A. Terms, Phrases, and Titles . . . . . A-1

Appendix B. Proposal Guidelines for FY97 BCRLF Demonstration Pilots . . . . . B-1

Appendix C. Guidance for Preparing an Assistance Funding Package . . . . . C-1

Appendix D. Sample Cooperative Agreement Application . . . . . D-1

Appendix E. Entities Selected for FY97 BCRLF Program . . . . . E-1

Appendix F. List of U.S. EPA Brownfields Policy and Guidance . . . . . F-1

Appendix G. Key Brownfields Regional and National Contacts . . . . . G-1

Appendix H. Approved Deviation Request . . . . . H-1

Appendix I. Brownfields Cleanup Revolving Loan Fund Scenarios . . . . . I-1



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## Appendix A Terms, Phrases, and Titles

The following provides a glossary of terms, phrases, and titles frequently used in discussions of BCRLFs.

**Administrative costs.** EPA places restrictions on the level and types of administrative costs for which BCRLF funds may be used -- for both cooperative agreement recipient's and borrower's administrative costs. The cooperative agreement recipient's allowable administrative costs shall include loan processing, professional services, audit, legal fees, state program fees, and costs incurred by the cooperative agreement recipient in ensuring that the borrower complies with directly related Federal requirements and interagency coordination. The cooperative agreement recipient shall use not more than 15 percent of the total award to cover a cooperative agreement recipient's (lead agency and fund manager) administrative and legal costs, as negotiated by EPA and the cooperative agreement recipient during the cooperative agreement application and award process. Furthermore, the cooperative agreement recipient shall use no more than ten percent of the borrower's principal repayments to the fund, and up to 100 percent of the borrower's interest payments and any program fees for administrative costs. With respect to the borrower's administrative costs, the cooperative agreement recipient (fund manager) shall negotiate with the borrower a limit of up to ten percent of the total loan to cover both administrative and cleanup response planning costs.

**Administrative record.** The cooperative agreement recipient (lead agency) is required to establish an administrative record containing the information forming the basis for the selection of a BCRLF response action (see NCP at 40 C.F.R. §300.800(a)).

**ARARs.** Applicable or relevant and appropriate requirements. BCRLF response actions must be designed to attain, to the extent practicable, applicable or relevant and appropriate requirements under federal environmental or state environmental or facility siting laws (see NCP at 40 C.F.R. §300.415(j)).

**ASTM.** American Society for Testing and Materials.

**ATSDR.** Agency for Toxic Substances and Disease Registry.

**Automated Clearing House/Electronic Funds Transfer.** A Federal payment mechanism that transfers cash to recipients of Federal assistance using electronic transfers from the Treasury through the Federal Reserve System.

**Written commitments.** Contracts or memoranda of understanding that should be established as part of the cooperative agreement application package before the award is signed.

**Borrower.** A borrower is a public or private entity that uses BCRLF funds for cleanup and cleanup related activities, and agrees to the terms of a loan agreement between itself and the cooperative

agreement recipient. The borrower cannot be the cooperative agreement recipient or an entity filling any of the BCRLF roles. (See VI.B.7. for further information on borrower eligibility criteria.)

**Brownfields Assessment Demonstration Pilots.** Brownfields assessment demonstration pilots focus on developing assessment models, streamlining regulatory requirements, and facilitating coordinated public and private efforts at the Federal, state, and local levels.

**Brownfields Cleanup and Economic Redevelopment Initiative.** A national initiative, of which BCRLF Pilots are a key component, to empower state and local governments and other stakeholders by the U.S. Environmental Protection Agency, of which BCRLF Pilots are a key component, that empowers states, political subdivisions of states, territories and Indian Tribes to prevent, assess, clean up, environmental restore and sustainably reuse brownfields sites.

**Brownfields site manager.** The brownfields site manager is designated by the lead agency and is responsible for overseeing cleanups at specific sites. The site manager must be a qualified government employee (one manager must be responsible for each site, but a single manager may be responsible for more than one site). See also definition for on-scene coordinator.

**Capital reserves.** Funds that remain in BCRLF and are not immediately loaned out.

**Capital utilization.** Capital utilization refers to use of BCRLF capital, such as what portion of funds should be loaned out at a given time, and how much reserved for future use.

**Capitalization.** Process of depositing various funds from public and private sources into a financial institution (e.g., the BCRLF) to enable financial services. This pool of money is distributed through loans in such a way as to ensure that payments are made back to maintain the corpus of the BCRLF.

**Cooperative agreement close out.** The process that the U.S. EPA follows to ensure that all administrative actions and work required under the cooperative agreement have been completed and to de-obligate funds that the recipient has been unable to use.

**Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).** CERCLA is the legislation that provides the authorization to conduct environmental response activities.

**Cooperative agreement.** An executive agency shall use a cooperative agreement as the legal instrument reflecting a relationship between the United State Government and a State, a local government, or other recipient when –

1. The principal purpose of the relationship is to transfer a thing of value to the State, local government, or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and
2. Substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the

agreement.

**Cooperative agreement recipients.** States, political subdivisions (e.g., counties, cities, towns), territories, and Indian tribes become BCRLF cooperative agreement recipients when they enter into BCRLF cooperative agreements with the U.S. EPA. EPA selects BCRLF cooperative agreement recipients based on a proposal and application process. BCRLF cooperative agreement recipients must use EPA funds provided through the BCRLF cooperative agreement for specified brownfields-related cleanup activities.

**Corpus.** The corpus refers to all initial funds and additional, subsequent revenue deposited for BCRLF capitalization. The corpus is essentially a "body" of funds that should remain intact throughout the life of the BCRLF.

**Cross-cutting Federal requirements.** Those requirements which are applicable to the BCRLF by operation of statutes, executive orders, and regulations other than CERCLA and associated administrative authorities.

**CRP.** Community relations plan. Prior to completion of the EE/CA (see below) or its equivalent, the BCRLF lead agency is required to prepare a community relations plan based on community interviews and other relevant information, specifying the community relations activities that the lead agency expects to undertake during the response (see 40 C.F.R. §300.415(n)).

**Debt obligation.** A legal obligation or liability to pay something to someone else.

**Default.** Failure to meet a financial obligation, such as a loan payment.

**Deviation request.** A waiver of certain specific regulatory requirements. In the case of the BCRLF Demonstration Pilot Program, a class deviation from certain application requirements, as specified in 40 C.F.R. 35 subpart O, was granted. Other deviation requests may be submitted to the U.S. Environmental Protection Agency by the BCRLF Pilots, but are by no means, automatic.

**Disbursement.** The transfer of cash from the cooperative agreement recipient to the borrower. Cooperative agreement recipients may choose to distribute funds to borrowers by means of "schedule" or "actual expense." A schedule disbursement is one in which all or an agreed upon portion of the obligated funds are disbursed on the basis of an agreed upon schedule (e.g., progress payments) or upon execution of the loan. An actual expense disbursement approach requires the cooperative agreement recipient to submit documentation of the borrower's expenditures (e.g., invoices or other contractual agreements) to the project officers to request payment.

**EE/CA.** Engineering evaluation/cost analysis. Cooperative agreement recipients are required to prepare an EE/CA or its equivalent as part of the BCRLF response selection, EE/CA's identify the objectives of the BCRLF response and analyze the effectiveness, feasibility, and costs of alternatives that would satisfy the BCRLF response objectives (see NCP at 40 C.F.R. §300.415(b)(4)(i)).

**Equivalency.** U.S. EPA requires that each cooperative agreement recipient ensure that loans made with BCRLF funding in combination with other non-federal funding sources, meet Federal cross-

cutting requirements (see above) to the extent of Federal participation in the loan. Approaches to meeting cross-cutting requirements include requiring borrowers to segregate expenditures between Federal and non-federal sources, meeting cross-cutting requirements to the extent Federal funding is included in the loan pool, and applying cross-cutting requirements to all BCRLF loans.

**Evaluation criteria.** Once a proposer has demonstrated their ability to meet the threshold criteria, the U.S. EPA evaluates proposers based on evaluation criteria, including: 1) demonstration of need; 2) commitment to creative leveraging of EPA funds; 3) benefits of BCRLF pilot loans to the local community; 4) long-term benefits and sustainability.

**Financial plan.** U.S. EPA requires that prior to receipt of capitalization funds for the BCRLF, cooperative agreement recipients or their designated fund managers establish objectives for financial administration of the fund, including the source(s) and level of capitalization and provision for utilizing program income; the types of assistance to be offered; capital utilization provisions (i.e., the revolving nature of the fund); underwriting principles to be followed; and assurance that all financial restrictions on funds use are met by the BCRLF and its borrowers.

**Fund manager.** The fund manager is responsible for overseeing BCRLF capital, including seed funding and income resulting from initial lending of pilot funds. Additionally, the fund manager is responsible for ensuring that the BCRLF is managed in conformance with the cooperative agreement, applicable laws and regulations, and prudent lending practices. The fund manager may be a cooperative agreement recipient or a private lender or another private entity that has entered into a binding agreement with the cooperative agreement recipient.

**GAD.** Grants Administration Division.

**GAO.** General Accounting Office.

**GPRA.** Government Performance and Results Act.

**Initial assistance.** First round of BCRLF loans from the cooperative agreement recipient to eligible borrowers. Upon initiation of the BCRLF program, a specific schedule for the initial round of lending is established (see VII.F.2.).

**Lead agency.** The cooperative agreement recipient is the lead agency responsible for planning and implementing BCRLF response actions. The lead agency in turn is responsible for designating a qualified environmental specialist as the “brownfields site manager” for each site subject to funded activities. The cooperative agreement recipient may engage the services of another government organization or private party to support lead agency functions.

**Loan.** Any form of financial assistance which is provided to a borrower from the BCRLF for all or part of project costs, and is subject to repayment.

**Noncompliance.** Failure to satisfy the terms of the cooperative agreement, including failure to meet environmental responsibilities and failure to manage the fund in a financial sound manner.

**Natural resource trustees.** The lead agency and brownfields site manager must ensure that natural resource trustees (including, but not limited to, the U.S. Department of the Interior, the National Oceanic, Atmospheric Administration, etc.) are promptly notified of potential damages to natural resources and must coordinate all BCRLF activities with such affected Trustees.

**NCP.** National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. Part 300).

**Obligation.** For the purpose of the BCRLF program, the cooperative agreement recipient incurs an “obligation” when it enters into a loan agreement with the borrower.

**OMB.** Office of Management and Budget.

**OSC.** On-scene coordinator. An OSC is responsible for overseeing cleanups at specific sites (as described in 40 C.F.R. Part 300). The OSC for BCRLF responses is the brownfields site manager (see above).

**OSWER.** Office of Solid Waste and Emergency Response.

**Payment.** EPA’s transfer of funds to the cooperative agreement recipient.

**Program income.** Program income is the gross income received by the cooperative agreement recipient, directly generated by the cooperative agreement award or earned as a result of the cooperative agreement (40 C.F.R. §31.25). It includes repayments of principal and interest and loan fees.

**Project revenues.** All rates, rents, fees, assessments, charges, and other receipts derived by a borrower from a project. Generally, the source of BCRLF assistance repayment.

**Proposer.** A proposer is a state or political subdivision of a state (city, county, etc.), territory, or Indian tribe that is going to submit or has submitted a proposal for a BCRLF Demonstration Pilot with to the U.S. EPA.

**Refinancing.** The issuance of new debt in exchange for, or to provide funds for, the retirement of a previously executed debt obligation.

**Revolving loan fund.** Financing tool that recycles funds by providing loans, receiving loan repayments, and then providing further loans. A BCRLF is a revolving loan fund.

**Standard Terms and Conditions, Special Terms and Conditions.** Included in the cooperative agreement between EPA and cooperative agreement recipients, Standard Terms and Conditions and Special Terms and Conditions are designed to provide a framework for guidance and dispute resolution.

**Threshold criteria.** EPA uses threshold and evaluation criteria to determine an entity’s capability to act as a potential cooperative agreement recipient. Threshold criteria include the ability of the entity to manage a RLF and carry out and oversee environmental cleanups; the legal authority to act as a cooperative agreement recipients, etc.

**VCP.** Voluntary cleanup programs are operated by states. BCRLF funds may be used to clean up a site pursuant to a state VCP, so long as the BCRLF response meets the substantive and procedural requirements of CERCLA and the NCP and all terms and conditions of the cooperative agreement are met.

**Work plan.** The document, negotiated between the EPA and the entity selected to receive BCRLF funding, which specifies the entities strategy for accomplishing program goals and objectives.



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## Appendix B

# Proposal Guidelines for BCRLF Demonstration Pilots

### INTRODUCTION

The Environmental Protection Agency's (EPA) Brownfields Economic Redevelopment Initiative is designed to empower states, local governments, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely cleanup, and sustainably reuse brownfields. As part of this Initiative, EPA will award Brownfields Cleanup Revolving Loan Fund (BCRLF) Demonstration Pilots to states, cities, towns, counties, territories, and Indiana tribes to test brownfields cleanup revolving loan fund models that direct special efforts toward facilitating coordinated public and private efforts at the federal, state, and local levels.

To date, the Agency has funded 78 Brownfields Assessment Demonstration Pilots. The brownfields assessment pilots (each funded up to \$200,000 over two years) test cleanup and redevelopment planning models, direct special efforts toward removing regulatory barriers without sacrificing protectiveness, and facilitate coordinated environmental cleanup and redevelopment efforts at the federal, state, and local levels. These brownfields assessment pilot are being used to bring together community groups, investors, lenders, developers, and other affected parties to address the issue of assessing sites contaminated with hazardous substances and preparing them for appropriate, productive use. The pilots serve as vehicles to explore a series of models for states and localities struggling with such efforts. Of those pilots, 39 are National Pilots selected under criteria developed by EPA Headquarters and 39 are Regional Pilots selected under EPA Regional criteria. (In 1997, EPA will announce 25 new National Pilots and at least 5 new Regional Pilots.)

For the 1997 fiscal year (FY97), only entities that have been awarded National or Regional brownfields assessment pilots prior to October 1995 will be eligible to apply to EPA's BCRLF demonstration pilot program. Therefore, up to 29 BCRLF pilots may be awarded in FY97 (eligible entities are listed in Appendix A). FY97 BCRLF pilots will be selected by the National program. Unlike brownfields assessment pilots, Regional offices will not independently identify and select BCRLF pilots.

The BCRLF pilots will be selected through an evaluation process. Eligible entities must demonstrate: 1) an ability to manage a revolving loan fund and environmental cleanups; 2) a need for cleanup funds; 3) commitment to creative leveraging of EPA funds with public-private partnerships and in-kind services; and 4) a clear plan for sustaining the environmental protection and related economic development activities initiated through the BCRLF program. *The 29 eligible entities must meet EPA's threshold and evaluation criteria. There is no guarantee of an award.* Also, the size of the awards may vary (for example, from \$50,000 to \$350,000), depending on the proposal's responses to the evaluation criteria.

## BACKGROUND

EPA defines brownfields as abandoned, idled, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination. EPA's Brownfields Economic Redevelopment Initiative is an organized commitment to help communities revitalize such properties both environmentally and economically, mitigate potential health risks, and restore economic vitality to areas where brownfields exist. Experience gained from the brownfields assessment pilots, along with partnerships and outreach activities, is providing a growing knowledge base to help direct EPA's Brownfields Initiative. A clean and healthy environment is not the enemy of a growing and robust economy. Successful brownfields redevelopment is proof that economic development and the environment can, and indeed, must co-exist.

Many sites across the country once used for industrial/commercial purposes have been abandoned or are under-used—some are contaminated, some are merely perceived to be contaminated. A report from the General Accounting Office (GAO: Community Development, Reuse of Urban Industrial Sites, June 1995, GAO/RCED-95-172) finds that:

"As states and localities attempt to redevelop their abandoned industrial sites, they have faced several obstacles, including the possibility of contamination and the associated liability for cleanup ... This situation is caused largely by federal and state environmental laws and court decisions that impose or imply potentially far-reaching liability. The uncertain liability has encouraged businesses to build in previously undeveloped nonurban areas—called 'greenfields'—where they feel more confident that no previous industrial use has occurred."

The National Environmental Justice Advisory Council (NEJAC) has likewise "determined that there exists a compelling need to address issues of economic development and revitalization of America's urban [and rural] communities." The NEJAC has requested that EPA:

"Provide leadership in stimulating a new and vigorous national public discourse over the compelling need to develop strategies for ensuring healthy and sustainable communities in America's urban [and rural] centers and their importance to the nation's environmental and economic future."

In an effort to respond to these concerns, the activities of EPA's Brownfields Initiative can be grouped into four broad and overlapping categories: (1) providing cooperative agreements for brownfields assessment and cleanup pilots; (2) clarifying liability and cleanup issues; (3) building partnerships and outreach among federal agencies, states, municipalities, and communities; and (4) fostering local job development and training initiatives.

Both assessment and cleanup pilots focus on EPA's primary mission—protecting human health and the environment. However, they are an essential piece of the nation's overall community revitalization efforts. EPA works closely with other federal agencies through the Federal Interagency Working Group on Brownfields and builds relationships with other stakeholders on the national and local levels to develop coordinated approaches for community revitalization.

## PURPOSE OF BROWNFIELDS CLEANUP REVOLVING LOAN FUND PILOTS

The BCRLF pilots are intended to support self-sustaining efforts by states, local governments, and Indian tribes to clean up brownfields. In particular, these pilots will test revolving loan fund models that facilitate coordinated public and private cleanup efforts. A revolving loan fund is a variant of a bond bank, in which a sponsoring entity (in this case, EPA) provides capitalization funds to a managing entity (for example, a municipality) that are used to make loans for authorized purposes (brownfields cleanups). A revolving loan fund charges interest on the loans, generally at a low interest rate. This fund is termed revolving because it uses loan repayments (principal, plus interest) to make new loans for the same authorized purposes.

From the BCRLF pilot funds, states, political subdivisions, and Indian tribes may provide loans, but not grants, to public and private parties (for example, local political subdivisions and community development organizations) for the purposes of cleaning up brownfields sites that already have been assessed for contamination. Loan repayments provide a continuing source of capital for states, political subdivisions, and Indian tribes to direct and facilitate brownfields site cleanups by providing additional loans to other eligible recipients for brownfields site cleanup.

The following definitions will be used throughout these proposal guidelines:

- A **Proposer** is the state, political subdivision of a state (for example, city, town, county), territory, or Indian tribe that is going to submit or has submitted a proposal for a BCRLF Demonstration Pilot with EPA.
- A **Proposal** is the document submitted to EPA that provides responses to the criteria described below. If the proposal meets the criteria and the proposer is selected by EPA to receive BCRLF pilot funding, the proposer will be requested to prepare a formal application for a cooperative agreement.
- A **Cooperative Agreement** is the document negotiated between EPA and those proposers that EPA has selected as candidates to receive BCRLF pilot funding. The cooperative agreement will award federal funds and outline the specific and standard terms and conditions to be met by the recipient of the funds.
- A **Cooperative Agreement Recipient** is the entity that enters into the cooperative agreement with EPA, will receive the BCRLF pilot funding from EPA, and be responsible for managing the funds, ensuring proper environmental cleanups, and complying with applicable laws and regulations.
  - The **Fund Manager** is the cooperative agreement recipient or its legally designated representative who will be responsible for ensuring that the BCRLF is managed in conformance with the cooperative agreement, applicable laws and regulations, and prudent cleanup and lending practices.

- The **Lead Agency** is the cooperative agreement recipient or its legally designated representative who will be responsible for ensuring that environmental cleanups conducted using BCRLF pilot funds are conducted in conformance with the cooperative agreement and federal and state requirements.
- The **Brownfields Site Manager** is the person appointed by the cooperative agreement recipient or lead agency to oversee cleanups at specific sites.
- The **Borrower** is the public or private entity that will receive and repay loans from the BCRLF under terms and conditions negotiated with the cooperative agreement recipient.

## LEGAL AND PROGRAM GUIDELINES FOR THE PROPOSALS

The BCRLF demonstration pilot program is funded under §104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). BCRLF pilot funds must be directed toward environmental response activities. BCRLF pilot funds may not be used to pay for non-environmental response or redevelopment activities (for example, construction of a new facility or marketing of property). Use of BCRLF pilot funds must be consistent with CERCLA, and all CERCLA restrictions on use of funding also apply to BCRLF pilot cooperative agreement recipients.

States, political subdivisions (including cities, towns, and counties), territories, and Indian tribes are eligible cooperative agreement recipients. Proposals from coalitions among the 29 entities eligible in FY97 are permitted to apply, but a single eligible entity must be identified as the legal recipient. Cooperative agreement funds will be awarded only to an eligible recipient, as described above.

The cooperative agreement recipient must act as, or designate, the "lead agency." In turn, the "lead agency" must officially designate a qualified environmental specialist as the "brownfields site manager" who can ensure that any cleanup activities performed by the borrower are consistent with federal and state requirements. The BCRLF pilot proposals must conform to the following guidelines:

### *Eligible Brownfields Sites*

- Use of the of BCRLF pilot funds are limited to brownfields sites that have been determined to have an actual release or substantial threat of a release of a hazardous substance which presents a threat to public health or welfare, or the environment. Funds may also be used at sites with a release or substantial threat of release of a pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare. These funds may not be used to pay for non-environmental redevelopment activities (for example, new construction or property marketing).
- However, BCRLF pilot funds may not be used for activities at any sites: 1) listed (or proposed for listing) on the National Priorities List; 2) at which a removal action must be taken by federal or state agencies within six months; or 3) where a federal or state agency is planning or

conducting a response or enforcement action.

- BCRLF pilot funds may be loaned for activities at sites that are: 1) currently publicly owned; 2) publicly owned, either directly by a municipality or indirectly through a quasi-public entity such as a community development corporation; 3) privately owned, with clear means of recouping BCRLF pilot expenditures (for example, through a guarantee by the owner's or developer's security interest or through a lien on real property); or 4) undergoing purchase by a new party who meets the definition of prospective purchaser.

#### *The Borrower*

- A party which is determined to be a generator or transporter of contamination at a brownfields site(s) is ineligible for a BCRLF pilot loan for that same site.
- The cooperative agreement recipient's lead agency may initially find that an owner/operator of a brownfields site(s) is an eligible borrower for a BCRLF pilot loan for that same site, only if: the lead agency can determine that an owner/operator would fall under a statutory exemption; or that EPA would use its enforcement discretion and not pursue the party in question under CERCLA, as described by EPA guidance (see list in Appendix B). However, the initial findings made by the lead agency by no means limit the enforcement discretion or authority of the federal or state government. The lead agency must maintain documentation demonstrating the eligibility of the owner/operator.

#### *Pre-Cleanup*

- BCRLF pilot funds may not be used to conduct environmental response activities preliminary to cleanup, such as site assessment, site identification, and site characterization. These funds have been designated by EPA's Administrator for cleanup-related activities only. The fund manager may, however, negotiate with the borrower a limit of up to 10% of the total loan to cover both administrative and cleanup response planning costs.
- The cooperative agreement recipient must ensure the pre-cleanup activities and cleanup planning conducted by the potential borrower meet federal, state, and local requirements. The authorized brownfields site manager must review and concur with the plans submitted by the borrower before the fund manager issues the loan.
- The cooperative agreement recipient's lead agency must review the current site conditions and site evaluation information that is required to be provided by the borrower to determine if the planned cleanup action is appropriate.
  - The site evaluation information must include pertinent facts about the discharge or release, such as: its source and cause; the identification of potentially responsible parties; the nature, amount, and location of discharged or released materials; the probable direction and time of travel of discharged or released materials; the pathways to human and environmental exposure; the potential impact on human health, welfare, and safety and the environment; the potential impact on natural resources and property that may be affected; priorities for protecting human health and welfare and the environment; analysis

of alternative cleanup options; and appropriate cost documentation.

- The cooperative agreement recipient must ensure adequate documentation of the basis for the selection of the cleanup action (including site evaluation information) and the decision to authorize cleanup activities (including the decision to issue a loan). The lead agency and the fund manager shall compile and maintain the documentation including the data, analyses of site information, and other documents that provide the basis for cleanup levels and activities.

#### *Cleanup Activities*

- The cooperative agreement recipient must ensure that activities supported by BCRLF pilot funds are carried out consistent with federal and state requirements. The brownfields site manager must monitor the borrower's site activities for compliance with federal and state environmental requirements. The brownfields site manager must monitor the borrower's cleanup activities to determine that the cleanup fully addresses the contamination. If the brownfields site manager determines that the borrower's planned cleanup action is not sufficient and the site requires additional action, the lead agency shall ensure an orderly transition to the additional activities that ensure protection of human health and the environment.
- The lead agency must determine that a potential borrower's proposed activities are consistent with removal activities authorized by CERCLA. The lead agency must determine, on a site-by-site basis, that a removal action is authorized by CERCLA. "Removal" is defined in CERCLA §101(23); and descriptions of removal actions and their requirements are included in 40 C.F.R. §300.415.
  - The lead agency must set community relations standards that ensure that the borrower's activities meet CERCLA public participation requirements. This includes, among other things, required public notice periods, availability of documents to the public, and the designation of a spokesperson who shall inform the community of actions taken, respond to inquiries, and provide information concerning the activities.
  - The lead agency must ensure that the borrower meets all federal and state requirements for worker health and safety at the brownfields cleanup site(s).
  - If the release of the hazardous substance, pollutant, or contaminant involves damage to natural resources as defined under CERCLA, the lead agency must ensure that the removal action plan coordinates with the activities of the designated federal trustee agency.
- The fund manager may allow the borrower to use BCRLF pilot loan funds for site monitoring activities that are reasonable and necessary during the cleanup process. Funds may be used to determine the effectiveness of the cleanup, but may not be used for operation and maintenance. BCRLF pilot funds may not be used for monitoring and data collection necessary to apply for, or comply with, environmental permits under other state and federal laws, unless such a permit is required as a component of the cleanup action.

### *Other Restrictions*

- The cooperative agreement recipient may use BCRLF pilot funds for the lead agency's or fund manager's administrative and legal costs up to 5% of the total award, to be determined during cooperative agreement application negotiations with EPA. Allowable costs may include loan processing, professional services, audit, legal fees, and state program fees.
- BCRLF pilot funds may not be used for job training. Support for job training activities may be available through the Hazardous Material Training and Research Institute, EPA programs, other federal agency programs, and state and local programs.
- BCRLF pilot funds may not be used to support "lobbying" efforts of the cooperative agreement recipient (for example, lobbying members of Congress or State legislatures, or lobbying for other federal grants, cooperative agreements, or contracts).
- BCRLF pilot funds may not be used at sites contaminated by petroleum products except to address a co-mingled hazardous substance, pollutant, or contaminant (for example, used oil). CERCLA expressly excludes petroleum from the definition of hazardous substances.
- Funding cannot be used to cleanup a naturally occurring substance, products that are part of the structure of residential buildings or business or community structures (for example, lead-based paint contamination or asbestos), or public or private drinking water supplies that have deteriorated through ordinary use, except as determined, in consultation with EPA, on a site-by-site basis consistent with CERCLA §104(A)(3) and (4).
- The cooperative agreement recipient cannot use BCRLF pilot funds to match any other federal funds without specific statutory authority. (However, the borrower may use BCRLF pilot funds to match other federal funds.)
- The cooperative agreements are governed by EPA's general grant regulations (40 C.F.R. Part 31) and regulations for cooperative agreements under CERCLA §104(d) (40 C.F.R. Part 35, Subpart C).

## EVALUATION OF THE PROPOSALS

### Evaluation Process

To ensure a fair evaluation process, EPA will convene a FY97 BCRLF pilot evaluation panel consisting of EPA Regional and Headquarters staff, Economic Development Administration (EDA) staff, and other federal agency representatives. The evaluation panel will assess how well the proposals meet the criteria outlined below. The evaluation panel's evaluations will be presented to EPA senior management for final selection. The evaluations will include recommendations for the number and size of the awards.

Proposals must be clear and decisive, strictly follow the criteria, and provide sufficient detail for the panels to compare the merits of each and decide which proposal best supports the intent of the pilot program. Vague descriptions and unnecessary redundancy may reduce the chance of a

favorable rating. Proposers are encouraged to contact and, if possible, meet with EPA Brownfields Coordinators (see Appendix C).

#### Cooperative Agreement Award Process

Upon determination of having been selected, proposers will receive a confirmation letter from EPA Headquarters. Since the cooperative agreements are to be awarded by the EPA Regional offices, at the time the selected proposers are notified, appropriate EPA Regional Brownfields Coordinators and Regional Grants Specialists also will be informed. The proposer then will be contacted by the Regional office and asked to submit a formal cooperative agreement application package. The information in the proposal submitted to EPA Headquarters will form a basis for the cooperative agreement application. However, the cooperative agreement application will require more detailed information on specific products, schedule, and budgets. The cooperative agreement application package will include: the standard application and budget forms; a formal work plan that provides a detailed description of the work to be performed, including a schedule, milestones, products, and budget backup information; information related to community relations, health and safety, and quality assurance plans; and the required certification forms. When the applicant is a political subdivision, an additional letter of support will be required from the appropriate state or tribe as an attachment to the cooperative agreement. In addition, as soon as the proposer is notified of having been selected, they will be asked to contact their State Intergovernmental Review office so that the required intergovernmental review process may begin immediately. The EPA Regional Brownfields Coordinator and Regional Grants Specialist will work closely with the applicant to process and finalize the cooperative agreement package.

Proposers that are not selected will be informed in writing. A proposer may choose to revise the proposal for submittal by a deadline announced by EPA at a later date.

#### STRUCTURE OF THE PROPOSAL

Proposals for BCRLF pilots should consist of the following sections:

- Cover Page (1 page)
- Proposal Overview (1-2 pages)
- Budget (1 page)
- Responses to Threshold Criteria -- Section A (up to 7 pages)
- Responses to Evaluation Criteria -- Sections B-E (up to 14 pages)
- Attachments (as appropriate; please provide an index)

Attachments should be kept to a minimum. Attachments that will be considered during proposal evaluation include maps and letters of commitment, support, or partnership from other government or private entities. Examples of attachments that will not be considered during proposal evaluation include strategies or plans developed for other programs, advertising brochures, newspaper articles, resolutions, statutes, and videotapes. Information in these types of attachments should be distilled and incorporated into the responses to criteria.

To ensure fair and equitable evaluation of the proposals, please do not exceed the above, single-sided page limitations. In addition, all materials included in the proposal (including maps



and other attachments) must be printed on letter-sized paper (8½" by 11") and font sizes may be no smaller than 11 points. Please submit two copies of your proposal materials, including attachments.

#### Cover Page

This is intended to identify the BCRLF Demonstration Pilot proposer and a point of contact for communication with EPA. This should be on a single page and in the format of your choice.

1. Proposal title: this should be as specific as possible.
2. Location: city, county, and state of the pilot area.
3. Scope and population of the pilot area.
4. Proposer identification: the name of the potential cooperative agreement recipient (for example, state or local agency).
5. Proposal director: the name of the person who is responsible for the proposal. We will contact this person if we need further information.
6. Mailing address of the proposal director.
7. Telephone/Fax/E-mail of the proposal director.
8. Name of the representative of the appropriate political subdivision (Mayor, County Executive, Tribal President, etc.) if different from the proposal director.
9. Mailing address of the representative of the appropriate political subdivision if different from the proposal director.
10. Telephone/Fax/E-mail of the representative of the appropriate political subdivision if different from the proposal director.
11. Date submitted: the date when the proposal is postmarked or sent to EPA via registered or tracked mail.
12. Pilot period: the pilot period for the cooperative agreement must not exceed three years. This will be determined by the proposer's projected implementation schedule for the initial round of lending to be described in "Criteria A.3.: Describe proposed BCRLF Financial Plan" (See pg.
13. When planning the pilot period, take into consideration that a final report is due at the end of the pilot.
14. Community background: demographic statistics on minority, unemployment, and poverty rates or other statistics that demonstrate distress in the pilot area.
15. Cooperative partners: provide a list of the individuals and organizations that have agreed to

participate in the implementation of the pilot without charge.

### Proposal Overview

The Proposal Overview is an important opportunity to briefly summarize the overall goals and objectives of a proposed pilot. Some of the information you provide in the Proposal Overview will overlap with the evaluation criteria. Provide an overview of the following topics:

- Overall brownfields goals and objectives.
- How capitalization of a BCRLF will help advance your goals and objectives.
- How the EPA cooperative agreement will be used (for example, administration, loans, financing).

### Budget

- Provide a potential budget for your proposal. This should show the distribution of the BCRLF pilot funds, including the portion of funds to be used for loans, and the potential cooperative agreement recipients' administrative costs, legal fees and professional services. A clear and concise budget is a critical element of the package.

## THRESHOLD CRITERIA (SECTION A)

### **A. Ability to Manage a Revolving Loan Fund and Environmental Cleanups**

Proposers must meet the threshold criterion—demonstrating an ability to manage a revolving loan fund and environmental cleanups—to be selected for a BCRLF Demonstration Pilot.

The cooperative agreement recipient will serve two primary functions: 1) fund manager, for the purposes of directing and administering the BCRLF pilot; and 2) lead agency, for the purposes of ensuring environmental compliance. The cooperative agreement recipient may enter into agreements with other organizations or individuals to provide these functions, but is ultimately responsible for all actions of the BCRLF pilot. This section addresses the threshold criteria, including management and financial plans (A.2. and A.3.), for eligibility to enter into a cooperative agreement and receive BCRLF pilot funding as a BCRLF fund manager and lead agency. Once a BCRLF pilot proposal is selected, but prior to when the cooperative agreement is signed, proposers will be asked to provide a more detailed management and financial plan.

#### **A.1. Demonstrate your legal authority to manage a revolving loan fund and environmental cleanups (or demonstrate a firm plan to get authority if provided with funding).**

Demonstrate your legal authority to perform the actions necessary to manage a revolving loan fund and environmental cleanups, which may include the ability to designate a lead agency or fund manager. Legal authority must include, among other things, the ability to enter into the cooperative agreement, appoint brownfields site managers, hold funds, make loans, enter into loan agreements, hold collateral, charge interest, and collect repayments on a dedicated basis. This authority may be based in statute, regulation, or other authority. The demonstration will most frequently be in the form of a legal opinion from the potential cooperative agreement recipient's legal counsel affirming the authority to carry out all necessary functions, specifically addressing the individual powers noted here and citing the basis for legal authorities.

In some cases, all authority may come from one source. For example, if the potential cooperative agreement recipient is a municipal government, your state may have granted broad powers to all municipalities that include those needed to operate a BCRLF. In some cases, however, such broad authority may not exist. In these cases, the legal opinion must cite specific authorities.

**A.2. Demonstrate that you have an effective institutional structure in place or planned. Specifically describe the roles of and relationships between: (1) the potential cooperative agreement recipient; (2) the proposed lead agency; (3) the proposed fund manager; and (4) the brownfields site manager.**

Provide background on the institutions and staff proposed to oversee and manage the BCRLF pilot. This background information must include experience doing the types of tasks necessary to manage a revolving loan fund and environmental cleanups. Provide a brief history of the institutions involved, including any past or pending legal actions against the institutions or individuals proposed, how those actions were resolved, and whether any are currently suspended, debarred, or otherwise ineligible to receive federal funding. It also must describe the relationship between the potential cooperative agreement recipient and these institutions and the type of agreement (for example, intergovernmental agreement or contractual agreement) that is planned between the potential cooperative agreement recipient and the administering entity.

*Cooperative Agreement Recipient*

This is the entity with the authority to enter into the cooperative agreement and ultimately be responsible for implementation of the BCRLF demonstration pilot. The cooperative agreement recipient will be responsible for ensuring that the funds provided by EPA are used for authorized purposes and the use of these funds is specifically tracked, recorded, and reported to EPA. The cooperative agreement recipient will enter into the cooperative agreement with EPA, be the recipient of determined funding, supervise implementation of the BCRLF pilot, and ensure compliance with all federal requirements. The cooperative agreement recipient also will be responsible for overall policy and direction. The recipient may choose to enter into agreements with a policy or advisory committee, such as a Brownfields Task Force or other organization of stakeholders for performance of some of the policy-setting activities.

*Administering Entity: Lead Agency*

The lead agency is the organization designated to ensure that environmental cleanups conducted using BCRLF pilot funds are conducted in conformance with the cooperative agreement and federal and state requirements. Should a proposer choose to designate a third party to serve as the lead agency, the proposer must ensure that BCRLF pilot funds are used only for authorized purposes. Proposers must demonstrate that the body designated to service this function has, or has access to: (1) Expertise in environmental management, particularly as it relates to CERCLA and other federal and state requirements; and (2) Legal and record-keeping expertise to oversee and report on the environmental activities of the borrower.

Please note: If the cooperative agreement recipient uses pilot funds to enter into agreements with non-governmental entities for these activities, proper procurement procedures must be followed.

### *Administering Entity: Fund Manager*

The fund manager is the organization or individual designated to manage the BCRLF on a day-to-day basis in conformance with the cooperative agreement, federal and state requirements, and prudent lending practices. Proposers must demonstrate that the body designated to service this function has, or has access to: (1) Financial skills to manage the financial health of the fund; (2) Analytical skills to evaluate potential borrowers on both technical and financial criteria; (3) Legal skills to structure loan agreements, collateral arrangements, and repayment instruments; and (4) Record keeping skills to track and report on the activities of the BCRLF and its borrowers (e.g., number of loans, categories of borrowers, program income).

To reduce their administrative costs, cooperative agreement recipients are permitted to designate third parties to serve as the fund manager. Should a proposer choose any of the options described below for BCRLF fund manager, the proposer must ensure that BCRLF pilot funds are used only for authorized purposes: (1) coordinate the administration of the BCRLF pilot with other existing revolving loan funds (e.g., EDA, others); (2) enter into agreements with the state to administer the BCRLF pilot funds; or (3) coordinate the administration of funds with other selected BCRLF cooperative agreement recipients.

The cooperative agreement recipient will be responsible for all actions of the fund manager. Therefore, should a BCRLF pilot cooperative agreement be terminated by EPA, the recipient must appoint a receiver to manage outstanding loans or EPA will appoint a receiver at the Agency's discretion.

Please note: If the cooperative agreement recipient uses pilot funds to enter into agreements with non-governmental entities for these activities, proper procurement procedures must be followed.

### *Brownfields Site Managers*

The cooperative agreement recipient must designate a brownfields site manager for each BCRLF pilot funded project to ensure environmental compliance. The brownfields site manager must be a state or city certified environmental professional. The brownfields site manager must serve as the cooperative agreement recipient's (or lead agency's) agent for the purposes of compliance with all relevant CERCLA provisions and other environmental compliance requirements.

### **A.3. Describe your proposed BCRLF Pilot Financial Plan.**

Briefly outline your proposed financial plans. The financial plan should address the proposed financing structure for the program, such as planned level of fund capitalization, loan schedule, and administrative costs. Once a BCRLF pilot proposal is selected, but prior to when the cooperative agreement is signed, proposers will be asked to provide a more detailed financial plan demonstrating the proposer's financial management capabilities to perpetuate for the time necessary to complete cleanup activities. The financial plan also may, but is not required to, identify anticipated initial loan recipients and level of funding to be provided. The proposer must address the following issues:

- The fund manager must outline a plan for committing and expending all funds allocated under

the BCRLF pilot cooperative agreement as efficiently as possible, and for working with borrowers to ensure that projects are funded and completed in a timely and expeditious manner.

- The fund manager must propose a time frame for disbursement of funds from EPA, based on the proposed fund's financial strategy. Payments to the fund will be subject to EPA's general grant regulations (40 C.F.R. Part 31.21). Therefore, for example, the fund manager must minimize the time elapsing between the transfer of funds by EPA and the disbursement by the cooperative agreement recipient.
- The fund manager must outline procedures for loan processing, disbursement, servicing, and closing under the RLF structure. The fund manager must also outline procedures for establishing collateral requirements to secure loans.
- The fund manager must describe the process for determining the borrower's interest rates and conditions which are most appropriate in achieving the goals of the RLF<sup>1</sup>.
- The fund manager must describe a financial reporting plan, which tracks the activity of the BCRLF pilot. The activities tracked may include, but not be limited to, the following: number of loans, rate of disbursement, loan periods and repayment schedules, and borrower profiles.
- The fund manager must propose a BCRLF pilot implementation schedule for the initial round of lending. For example, the proposer may state that "the initial round of lending by the fund manager will be closed within three years of grant approval with no less than 50% of the BCRLF pilot cooperative agreement funds disbursed within 18 months, and 80% within two years." However, the cooperative agreement recipient must agree that failure to comply with these deadlines can result in the deobligation and recovery of undisbursed cooperative agreement funds at the option of EPA.

## EVALUATION CRITERIA (SECTIONS B-E)

Those proposers that meet the threshold criterion will be evaluated based on their responses to four evaluation criteria: (1) demonstration of need; (2) commitment to creative leveraging of EPA funds; (3) benefits of BCRLF pilot loans to the local community; and (4) long-term benefits and sustainability.

Your response to the following criteria will be the primary basis on which EPA determines the size of award. EPA's evaluation panel will review the proposals carefully and assess each response based on how well it addresses each criterion.

### ***B. Evaluation Criteria: Demonstration of Need***

#### **B.1. Problem Statement and Unique Needs of the Community**

Provide demographic measures that demonstrate economic distress in targeted municipalities and neighborhoods. Demographic measures should include population (including distribution of minorities), poverty rates, and unemployment rates. Other measures could include per capita or

family income levels or other measures that demonstrate distress.

The proposal should explain the unique needs of the community, including why certain demographic problems are a priority. Specific goals and strategies developed to deal with problems should be identified. Connecting to environmental justice issues, city or county-wide strategic planning, or comparative risk efforts is encouraged. If specific neighborhoods or communities have been targeted for enhanced development, a brief description of those plans should be included in the proposal.

Provide explanations of interactions with other local, state, or federal economic incentive programs designed to increase jobs and capital investment (for example, federal enterprise communities and empowerment zones, state-designated zones, tax increment financing districts, and public improvement districts). Any public/private investment activities associated with the demographic concerns should be described.

## **B.2. Description of Potential Borrowers and Property**

Detail the types of borrowers expected to benefit from BCRLF pilot financing and provide general information about their financial needs. The proposal should explain the process for identifying and selecting BCRLF pilot prospective borrowers, and detail how they will be certified as qualified borrowers. Identify planned procedures for determining how potential borrowers requesting BCRLF pilot loans are well qualified to direct the proposed redevelopment and have a demonstrated record of success.

Describe specific areas that are to be included in the BCRLF pilot eligibility pool. Maps of eligible areas of emphasis, with clear explanations attached, should be provided. When possible, the proposal should provide descriptions of eligible properties. (Eligible BCRLF pilot areas do not need to correspond to areas being addressed through EPA site assessment pilots.)

## **B.3. Ability to Finance Cleanups**

Provide information on all other currently available or anticipated sources of funding for cleanup in the eligible area, including other federal, state, local, non-profit, and private funding sources. Specific gaps in financing should be highlighted, including a discussion of the ability of prospective borrowers to secure commercial financing.

## ***C. Evaluation Criteria: Commitment to Creative Leveraging of EPA Funds***

### **C.1. Ability to Attract and Support Other Financing**

Discuss how you plan to use BCRLF pilot funds to address funding gaps for cleanup of eligible BCRLF pilot area properties (as discussed in Evaluation Criteria B.3). Proposals should demonstrate the extent to which EPA seed funding of a BCRLF pilot will attract other resources and be used in conjunction with those resources to maximum benefit.

Describe how the BCRLF pilot program will be coordinated with other revolving loan funds or financing programs available for environmental assessment and cleanup. Describe the anticipated

impact of BCRLF pilot funding on borrowers' ability to secure other financing (private investment; commercial financing; not-for-profit contributions; federal, state, and local funds).

## **C.2. Cash and In-Kind Contributions**

While proposers are not required to match seed capitalization funds, financial participation is encouraged and will be taken into account in evaluating proposals. Proposers, therefore, should describe their intended financial contributions to capitalizing the proposed BCRLF and the sources of these capitalization funds. This discussion can include both direct cash contributions and access to relevant in-kind services.

## **C.3. Efficiency of Planned Administrative Structure**

Describe the anticipated administrative framework for the BCRLF pilot and discuss how the planned BCRLF pilot structure will be integrated with other programs (for example, other revolving loan fund programs) in a manner that minimizes administrative costs for the BCRLF pilot program.

## ***D. Evaluation Criteria: Benefits of BCRLF Loans to the Local Community***

### **D.1. Announcement and Notification of BCRLF Fund Availability**

Describe your procedures for providing for public hearings and Notification of Funds Available (NOFA) when a BCRLF program is being planned and before it is implemented. Describe the public outreach process that must be held for the initial notification of the loan program. If a formal public comment period is provided, and the proposer allows for no action on the program until the comment period is completed, details must be included in the proposal. Documentation of all outreach efforts must be provided to EPA upon the Agency's request.

### **D.2. Community Involvement in Future Land Reuse**

Describe how the proposed BCRLF pilot is community-based or how the proposer plans to involve the community in targeted areas of the pilot. Community meetings will be required as a part of the redevelopment process at a brownfields site when the property owner or developer is accepted as a borrower. Outline how you intend to ensure community involvement.

Describe partnerships with academic associations, environmental justice groups, established community contacts, and organizational networks. Detail the method for including these groups in land reuse decisions. Describe any standards for land-use based environmental cleanups. Include particulars on the community involvement in the determination of the selected environmental cleanup standards.

To demonstrate significant involvement of other community organizations or local agencies, the proposal may include letters of commitment from involved organizations. (These letters are not required; however, the letter from the state mentioned in the Cooperative Agreement Award Process section will be required.)

### **D.3. Contribution to Community Economic Development Plans**

Cooperation among municipal, county, state, federal, and private economic development programs is encouraged. Provide a summary of such partnerships already developed for the delivery of economic benefits to the impacted brownfields area. Provide details on how the partners cooperate for overall economic community development. Describe the relationship envisioned with these partners under the BCRLF pilot program.

If funding of these partners is envisioned under the cooperative agreement, all proper procurement requirements will need to be met.

### **D.4. Environmental Justice Benefits**

Special emphasis will be given to the enhancement or development of partnerships with environmental justice communities. Proposers should have a strong network already established with environmental justice community leaders. Describe the benefits already derived from the network.

To demonstrate significant involvement of other community organizations or local agencies, the proposal may include letters of commitment from involved organizations. (These letters are not required; however, the letter from the state mentioned in the Cooperative Agreement Award Process section will be required.)

### **D.5 Projected Sustainable Benefits**

To ensure that the proposer's brownfields program continues when EPA funds are exhausted, the proposer should present the long-range planning and budget efforts established by the municipal or county agency responsible for implementing the brownfields program.

Describe the environmental and economic benefits of the BCRLF pilot, including the benefits of near-term projects and the projected sustainable environmental protection and economic stability of the community. Projected taxes, job creation, and pollution prevention information, if available, should be presented. Discuss intangible social benefits (for example, increased community pride, improved perceptions that the community is a good place to live and work, decreased fear of crime).

## ***E. Evaluation Criteria: Long-Term Benefits and Sustainability***

### **E.1. National Replicability**

Describe the local barriers that you will face in revitalizing brownfields. Describe the financial and environmental management methods, particularly innovative methods, that you plan to implement to address these barriers and facilitate brownfields cleanup and reuse. Methods may include master-planning for environmentally friendly future land use, options for environmental project financing, financing and use of new cleanup technologies, environmental awareness training, environmental justice planning, or other methods to institutionalize environmental policies and financing. Describe how any innovative methods will be implemented.



Given the complexity and local nature of the problem, no single plan will be suitable nationwide, but how you address specific barriers may provide lessons for others with similar problems. Describe how this pilot can serve as a model for others to use in addressing barriers to revitalizing brownfields.

## **E.2. Measures of Success**

Describe your plans for measuring success in achieving your BCRLF pilot goals. Measures of success should be specific and linked to the goals established for your pilot. Measures of success may include environmental indicators, economic indicators, institutionalized environmental or outreach processes, or other indicators of what you would consider a successful brownfields program. Success in this demonstration pilot should be measured in terms of environmental achievement (for example, number of sites cleaned up, acres of brownfields cleaned per dollar invested), revolving loan fund activity (for example, number and amount of loans issued, program income earned, default/delinquency rates, personal equity matches, and prognosis for long-term success of revolving fund), and program strategy (for example private capital leveraged, other public investment leveraged). Provide quantifiable measures wherever possible.

Describe baseline measures that you have developed or plan to develop for the measures of success. If baseline measures have not been developed yet, describe how and when you plan to develop them.

Describe any reports or other deliverables you plan to provide to EPA as documentation of your pilot's progress and success.

## SCHEDULE FOR AWARDING EPA'S BROWNFIELDS CLEANUP REVOLVING LOAN FUND DEMONSTRATION PILOTS

June 9, 1997	Proposal deadline for the 29 entities eligible for BCRLF demonstration pilots cooperative agreements.
June 1997	Panels evaluate proposals.
July 1997	Announcement of proposals selected for the 1997 BCRLF demonstration pilots.
September 1997	BCRLF demonstration pilot cooperative agreements awarded.

*The BCRLF pilot proposals must be post-marked or sent to EPA via registered or tracked mail by June 9, 1997.*

Please send to:  
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