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Burden Statement: The public reporting and recordkeeping burden for this collection of information is estimated to average 16 hours per Endorser (one-time burden); 100.75 hours per Partner in the first year; and 55.25 hours per Partner each subsequent year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are those businesses, institutions, and government agencies that sign up to participate in EPA's WasteWiSe program.

Estimated Number of Respondents: 694 respondents annually.

Frequency of Response: On Occasion and Annually.

Estimated Total Annual Hour Burden: 40,067 hours.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1698.03 and OMB Control No. 2050-0139 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460 and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: May 1, 1997.

Joseph Retzer,

Director, Regulatory Information Division.
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ENVIRONMENTAL PROTECTION AGENCY

[FRL-5822-7]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104; Announcement of Proposal Guidelines for the Competition for the 1997 National Brownfields Cleanup Revolving Loan Fund Demonstration Pilots

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Proposal Deadlines and Guidelines.

SUMMARY: 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 Indian 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. 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 29 eligible pilots are listed below (sorted by EPA Region):

EPA Region 1: BRIDGEPORT, CT; BOSTON, MA

EPA Region 2: TRENTON, NJ; BUFFALO, NY; ROCHESTER, NY

EPA Region 3: BALTIMORE, MD; PHILADELPHIA, PA; PITTSBURGH, PA; CAPE CHARLES, VA; RICHMOND, VA

EPA Region 4: BIRMINGHAM, AL; LOUISVILLE, KY; KNOXVILLE, TN

EPA Region 5: STATE OF ILLINOIS; WEST CENTRAL MUNICIPAL CONFERENCE, IL; STATE OF INDIANA; INDIANAPOLIS, IN; DETROIT, MI; STATE OF MINNESOTA; CUYAHOGA COUNTY (Cleveland), OH

EPA Region 6: NEW ORLEANS, LA; DALLAS, TX; LAREDO, TX

EPA Region 7: ST. LOUIS, MO

EPA Region 8: SAND CREEK CORRIDOR, CO; WEST JORDAN, UT

EPA Region 9: SACRAMENTO, CA;

EPA Region 10: OREGON MILLS, OR; DUWAMISH, WA

DATES: This action is effective immediately and expires on June 9, 1997. All proposals must be postmarked or sent to EPA via registered or tracked mail by the expiration date cited above.

ADDRESSES: Proposal guidelines can be obtained by calling the Superfund Hotline at the following numbers: Washington, DC Metro Area at 703-412-9810, Outside Washington, DC Metro at 1-800-424-9346, TDD for the Hearing Impaired at 1-800-553-7672.

Guidelines may also be obtained by writing to: U.S. EPA—Brownfields Application, Superfund Document Center 5201G, 401 M Street, SW., Washington, DC 20460.

Copies of the Booklet are available via the Internet: <http://www.epa.gov/brownfields/>

FOR FURTHER INFORMATION CONTACT: The Superfund Hotline, 800-424-9346.

SUPPLEMENTARY INFORMATION:

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller

General of the General Accounting Office prior to publication of the action in today's **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804 (2).

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.

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 will 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 funds may not be used to pay for non-environmental response redevelopment activities (for example, construction of a new facility or marketing of property). Use of BCRLF

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 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 can not 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 CFR Part 31) and regulations for cooperative agreements under CERCLA § 104(d) (40 CFR 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.

Criteria for the Brownfields Cleanup Revolving Loan Fund Proposal

The proposal evaluation panels will review the proposals carefully and assess each response based on how well it addresses the evaluation criteria, briefly outlined below:

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.

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).

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.

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

Evaluation Criteria (Sections B-E)

Those proposers that meet the threshold criterion will be evaluated

based on their responses to three evaluation criteria: (1) demonstration of need; (2) commitment to creative leveraging of EPA funds; (3) benefits of BCRLF pilot loans to the local community criteria; 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
- B.2. Description of Potential Borrowers and Property
- B.3. Ability to Finance Cleanups

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

- C.1. Ability to Attract and Support Other Financing
- C.2. Cash and In-Kind Contributions
- C.3. Efficiency of Planned Administrative Structure

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

- D.1. Announcement and Notification of BCRLF Fund Availability
- D.2. Community Involvement in Future Land Reuse
- D.3. Contribution to Community Economic Development Plans
- D.4. Environmental Justice Benefits
- D.5. Projected Sustainable Benefits

E. Evaluation Criteria: Long-Term Benefits and Sustainability

- E.1. National Replicability
- E.2. Measures of Success

Dated: April 22, 1997.

Linda Garczynski,

Director, Outreach and Special Projects Staff, Office of Solid Waste and Emergency Response.

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ENVIRONMENTAL PROTECTION AGENCY

[OPP-181045; FRL 5714-4]

Benomyl; Receipt of Application for Emergency Exemptions, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the North