



EPA New England

EPA New England FY2021 Brownfields Grant Guidelines Webinar CLEANUP GRANT THRESHOLD CRITERIA SESSION

SEPTEMBER 10, 2020



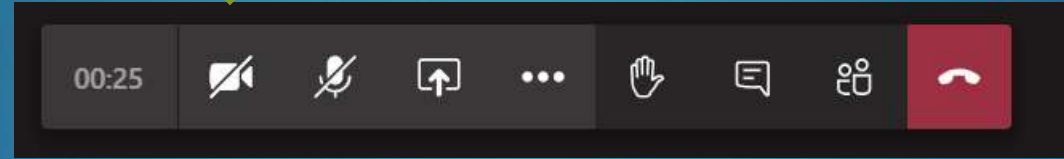
Microsoft Teams Webinar Tips

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Purpose of this Session

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- ▶ FY2021 Brownfields **Cleanup Grant** Guidelines
- ▶ Application Submission Process
 - Threshold Criteria
 - Due Date & Submission Instructions
 - Content & Form of Application Submission
 - Narrative Information Sheet
- ▶ Provide time for Q&A
- ▶ Should any information provided in the following slides or by the presenters differ from the Guidelines, the language written in the Guidelines shall prevail.

Section I.A

Description of Grant

- ▶ Grant supports cleanup activities at a specific site or multiple sites **owned** by the applicant.
- ▶ An individual applicant can apply for:
 - **One** cleanup application up to \$500,000.
 - Address a **single site** or **multiple sites**.
 - Period of performance is **3 years**.
- ▶ Administrative costs (direct and indirect costs) are allowed up to **5%** of the requested funds. See FY21 [FAQs N.1-12](#).
- ▶ If you were previously awarded an EPA Cleanup Grant for your site(s), you **cannot** request additional funding. See FY21 [FAQs K.3-4](#).



1. Direct Programmatic Costs ([CFR Part 200, Subpart E](#))
 - Performance reporting
 - Environmental oversight
2. Purchase Environmental Insurance (F.6-7).
3. Local governments may use up to 10% of their grant funds to develop and implement a brownfields program (See [Health Monitoring](#) fact sheet & F.8 & R.1).

Section III.B

Threshold Criteria (FY21 Cleanup Guidelines P.10-27)

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- ▶ All Threshold Criteria are pass/fail.
- ▶ Responses must be included as an attachment to your narrative.
- ▶ **You MUST respond to all criteria. Failure to do so will result in elimination from the competition. Be careful here!**
 - Note: EPA may seek clarification of a response but if you did not respond, it is impossible to do so.
- ▶ **You must pass these criteria to move forward in the competition.**

Section III.B

Threshold Criteria

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1. Applicant Eligibility
2. Previously Awarded Cleanup Grants
3. Site Ownership
4. Basic Site Information
5. Status & History of Contamination at the Site
6. Brownfields Site Definition
7. Environmental Assessment Required for Cleanup Grant Applications
8. Enforcement or Other Actions
9. Sites Requiring a Property-Specific Determination
10. Threshold Criteria Related to CERCLA/Petroleum Liability
11. Cleanup Authority and Oversight Structure
12. Community Notification
13. Statutory Cost Share

If you have multiple sites, you must include this information for each site.

Threshold Criteria

1. Applicant Eligibility (FAQs E.1-4)

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- ▶ Cities, Counties, Tribes & States
 - **Affirm that your organization is eligible for funding**
- ▶ Other Governmental Entities
 - **Attach documentation of your eligibility (resolutions, statutes, etc.)**
- ▶ Non-profits - 501 (c) (3), LLCs comprised of 501 (c) (3)'s, & LLPs comprised of 501 (c) (3)'s
 - **Attach documentation demonstrating tax-exempt status under section 501(c)(3) of the Internal Revenue Code**
- ▶ Community development entities per 45D(c)(1)
 - **Attach documentation certifying your organization's status**

Threshold Criteria

2. Previously Awarded Cleanup Grants (FAQs K.3-4)

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- ▶ Applicants that were previously awarded a Brownfields Cleanup Grant for a site **may not** request an additional Cleanup Grant for the same site(s).
- ▶ **Affirm, in this criterion, that the proposed site(s) has not received a previous EPA Cleanup Grant.**



- ▶ You must be the **sole owner** of the site(s) by the due date of the application – **October 28, 2020**.
- ▶ The term “**own**” means fee simple title through a legal document such as a recorded deed unless EPA approves a different ownership agreement such as a nominee agreement or a 99-year lease.
- ▶ You must retain ownership of the site while grant funds are being disbursed for the cleanup of the site.
- ▶ **Affirm that you own or will own the site(s) by October 28, 2020.**

- ▶ Identify for your site(s):
 - a. The **name** of the site(s);
 - b. The **address** of the site(s), including zip code;
 - c. The **current owner** of the site(s). If you are not the current owner, the **date you plan to acquire ownership**. This date must be on or before the application due date of **October 28, 2020**.

- ▶ Identify for your site(s):
 - a) Hazardous Substances and/or petroleum contamination;
 - b) Operational history and current use(s);
 - c) Known environmental concerns; and
 - d) How the site(s) became contaminated and the nature and extent of the contamination.



- ▶ **Affirm** that your site is:
 - a. **Not** listed or proposed for listing on the National Priorities List (Superfund Site);
 - b. **Not** subject to unilateral administrative orders, court orders, administrative orders on consent, or judicial consent decrees issued under CERCLA; and
 - c. **Not** subject to jurisdiction, custody, or control of the U.S. government.



Threshold Criteria

7. Environmental Assessment Required for Cleanup Grant Applications (FAQs K.15)

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- ▶ A written **ASTM E1903-19** or equivalent Phase II report (draft is ok) **must be completed** prior to application submission and date of report must be provided.
 - Describe the type of environmental assessments conducted at your site(s).
 - Equivalent reports include site investigations or remedial action plans developed for state cleanup programs.
- ▶ **Do not attach assessment reports.**

- ▶ Identify any ongoing or anticipated environmental enforcement actions on your site(s).
- ▶ Provide information on any inquiries or orders from federal, state or local government entities, including any liens.
- ▶ Information you provide may be verified and EPA may conduct an independent review of your responsibility for the contamination at the site(s) and site eligibility.
- ▶ If none exist, **affirm** that there are no known enforcement or other actions.



- ▶ Certain types of sites require a property-specific determination in order to be eligible for Brownfields Grant funding.
- ▶ A property-specific determination describes how cleaning up your site(s) will protect human health and the environment and either:
 - Promote economic development; or
 - Enable the property to be used for parks, greenways, recreational or non-profit purposes.
- ▶ If **not required**, affirm that the site(s) does not need a property-specific determination.
- ▶ **The Property-Specific Determination is an attachment to your application.**

- ▶ These sites are usually:
 - Subject to planned or ongoing removal actions under CERCLA;
 - Have been issued unilateral administrative orders, court orders, administrative orders on consent, judicial consent decree or permits under RCRA, FWPCA, TSCA or SDWA;
 - Subject to RCRA corrective action (§3004(u) or §3008(h));
 - Have submitted a RCRA closure notification or subject to closure requirements;
 - Where a release of PCBs is subject to remediation under TSCA; and
 - Receiving funds from the LUST Trust Fund.

QUESTIONS?

▶ **Respond to all items in:**

- ✓ Section (a) → Hazardous Substances
- ✓ Section (b) → Petroleum
- ✓ Sections (a) & (b) → Hazardous Substances and Petroleum

▶ **For co-mingled hazardous substances and petroleum, determine predominance and move forward with dominant substance.**

Threshold Criteria

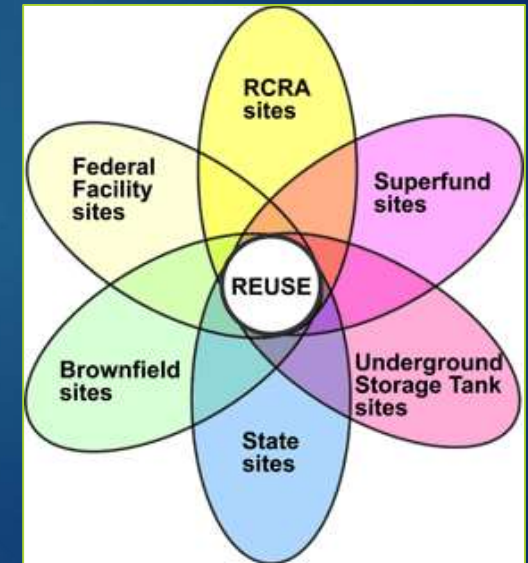
10.a Property Ownership Eligibility – Hazardous Substances

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- ▶ You must respond to the **appropriate item**:
 - i. Exemptions to CERCLA Liability
 - ii. Exceptions to Meeting the Requirements for Asserting an Affirmative Defense to CERCLA Liability
 - iii. Landowner Protections from CERCLA Liability



Threshold Criteria

10.a.i Exemptions to CERCLA Liability

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1) Indian Tribes

- Tribes are considered exempt from CERCLA liability.
- **To respond to this criterion, you need to** affirm that you are an Indian tribe and are exempt from demonstrating that you meet the requirements of a CERCLA liability defense.

2) Alaska Native Village Corporations & Alaska Native Regional Corporations

- **Not applicable to New England.**

3) Property Acquired Under Certain Circumstances by Units of State & Local Government

- You are exempt from CERCLA liability if you did not cause or contribute to contamination at the site and acquired the property as indicated below:
 - ✓ Seizure or in connection with law enforcement activity;
 - ✓ Bankruptcy;
 - ✓ Tax delinquency; or
 - ✓ Abandonment.
- EPA has treated and will continue to treat acquisitions by escheat as exempt from liability if the other conditions in CERCLA § 101(20)(D) are met.

3) Property Acquired Under Certain Circumstances by Units of State & Local Government

- **To respond to this criterion, you need to:**

- a) Describe in detail the circumstances (from the list above) of the acquisition.
- b) Provide date of the acquisition.
- c) Identify whether all disposal of hazardous substances occurred before you acquired the property.
- d) Affirm that you have not caused or contributed to any release of hazardous substances at the site.
- e) Affirm that you have not, at any time, arranged for the disposal of hazardous substances at the site or transported hazardous substances to the site.

Threshold Criteria

10.a.ii Exemptions for Affirmative Defense to CERCLA Liability

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1) Publicly Owned Brownfield Sites Acquired Prior to January 11, 2002

- State or local governments that acquired a property **prior to January 11, 2002** are eligible even if they do not qualify as a bona fide prospective purchaser, provided they did not cause or contribute to the contamination at the property.



- 1) Publicly Owned Brownfield Sites Acquired Prior to January 11, 2002
 - **To respond to this criterion, you need to:**
 - a) Describe in detail the circumstances of the acquisition.
 - b) Provide date of the acquisition.
 - c) Identify whether all disposal of hazardous substances occurred before you acquired the property.
 - d) Affirm that you have not caused or contributed to any release of hazardous substances at the site.
 - e) Affirm that you have not, at any time, arranged for the disposal of hazardous substances at the site or transported hazardous substances to the site.

Threshold Criteria

10.a.iii Landowner Protections from CERCLA Liability (**Guidelines P.18-22**)

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- ▶ State, local governments, and non-profit organizations must show they are either a:
 - **Bona Fide Prospective Purchaser (BFPP)** (This defense is most common); or
 - Contiguous Property Owner (CPO); or
 - Innocent Landowner (ILO).
- ▶ **This is required if you do not qualify for one of the prior exemptions.**

(1) Bona Fide Prospective Purchaser Liability Protection

- Applicants that acquired the property **after** January 11, 2002
- **To respond to this criterion, you need to provide the following information:**
 - a) Information on the Property Acquisition
 - b) Pre-Purchase Inquiry
 - c) Timing and/or Contribution Toward Hazardous Substances Disposal
 - d) Post- Acquisition Uses
 - e) Continuing Obligations

(1) Bona Fide Prospective Purchaser Liability Protection

a) Information on the Property Acquisition

- i. How you acquired (or will acquire) the property.
- i. The date you acquired the property.
- ii. The nature of your ownership (fee simple title or other EPA approved arrangement).
- iii. The name and identity of the party from whom you acquired the property.
- iv. All familial, contractual, corporate, or financial relationships or affiliations you have or had with all prior owners or operators the property.

(1) Bona Fide Prospective Purchaser Liability Protection

b) Pre-Purchase Inquiry

- i. Describe the types of site assessments performed
 - ✓ **ASTM Phase I or AAI;**
 - ✓ The dates of each assessment; and
 - ✓ The entity the assessments were completed for.
- ii. Describe who performed the AAI or Phase I assessment and identify their qualifications to perform such work.
- iii. If your original Phase I or AAI assessment was performed **more than 180 days prior to your acquisition** of the property, affirm that you conducted the appropriate updates.

(1) Bona Fide Prospective Purchaser Liability Protection

c) Timing and/or Contribution Toward Hazardous Substances Disposal

- ✓ Identify whether all disposal of hazardous substances at the site occurred before you acquired the property **and** whether you caused or contributed to any release.
- ✓ **Affirm** that you have not arranged for the disposal of or have transported hazardous substances to the site.

(1) Bona Fide Prospective Purchaser Liability Protection

d) Post Acquisition Uses

- ✓ Describe all uses of the property since you acquired ownership, including any uses by persons or entities other than you.
- ✓ Provide a **timeline** with the:
 - Names of all current and prior users during the time of your ownership;
 - Dates of all uses;
 - Details of all uses; and
 - Your relationship to all users.



(1) Bona Fide Prospective Purchaser Liability Protection

e) Continuing Obligations

- ✓ Describe **in detail** the reasonable steps that you took with respect to hazardous substances found at the site to:
 - i. Stop any continuing releases;
 - ii. Prevent any threatened future release; and
 - iii. Prevent or limit exposure to any previous releases.

(1) Bona Fide Prospective Purchaser Liability Protection

e) Continuing Obligations (continued)

- ✓ Confirm your commitment to:
 - i. Comply with all land-use restrictions and not impede the effectiveness or integrity of any institutional controls;
 - ii. Assist and cooperate with those performing cleanup and provide access to the site;
 - iii. Comply with all information requests and administrative subpoenas; and
 - iv. Provide all legally required notices.

(2) Non-Publicly Owned Sites Acquired **Before** January 11, 2002

- An applicant is eligible for a grant if it acquired a non-publicly owned site prior to January 11, 2002 if the applicant can demonstrate that they:
 - ✓ Performed environmental due diligence that was customary at the time.
 - ✓ Did not cause or contribute to the contamination at the site.
- **To respond to this criterion, you need to provide the requested information.**

- (2) Non-Publicly Owned Sites Acquired **Before** January 11, 2002
- a) Describe the circumstances of property acquisition.
 - b) Provide the date of the acquisition.
 - c) Discuss the environmental due diligence you performed prior to acquiring the site and affirm it was customary at the time of acquisition.
 - d) Identify whether all disposal of hazardous substances at the site occurred before you acquired the site.
 - e) Affirm that you have not caused or contributed to any release of hazardous substances at the site.

(2) Non-Publicly Owned Sites Acquired **Before** January 11, 2002

- f) Affirm that you have not, at any time, arranged for the disposal of hazardous substances at the site or transported hazardous substances to the site.
- g) Describe **in detail** the reasonable steps that you took with respect to hazardous substances found at the site to:
 - i. Stop any continuing releases;
 - ii. Prevent any threatened future release; and
 - iii. Prevent or limit exposure to any previous releases.

Threshold Criteria

10.b Property Ownership Eligibility – Petroleum Sites (FAQs Q.1-8)

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- ▶ Read the supporting information on **page 22-23** and **Section 1.3.2** in [Information on Sites Eligible for Brownfields Funding under CERCLA § 104\(k\)](#) pertaining to petroleum site eligibility.
- ▶ You must submit the requested information to your state Brownfields Coordinator to make the petroleum determination.
- ▶ Attach the state's petroleum determination letter to your application.
- ▶ You must provide EPA with the date you submitted your request to the state to make the petroleum determination.

- i. Information Required for a Petroleum Site Eligibility Determination:
 - 1) Current & Immediate Past Owners
 - 2) Acquisition of Site
 - 3) No Responsible Party for the Site
 - 4) Cleaned Up by a Person Not Potentially Liable
 - 5) Judgments, Orders, or Third Party Suits
 - 6) Subject to RCRA
 - 7) Financial Viability of Responsible Parties



QUESTIONS?

- A. Describe how you will oversee the cleanup
- Discuss who will oversee the cleanup: LSP, LEP, State, QEP (explain how you will ensure they are in place before cleanup begins and that they will be acquired consistent with the applicable competitive procurement provisions).
 - Indicate that you will enroll the site in your state response program.
- B. Provide plan to acquire access to adjacent properties

- ▶ You must provide the community with:
 - **Notice of your intent to apply for an EPA Cleanup Grant; and**
 - **Opportunity to submit comments on your draft grant application.**
- ▶ If you are including multiple sites in your application, one notification ad & meeting are acceptable as long as all target communities are involved.
- ▶ You must complete all the community notification activities **2 weeks prior to submittal** of your application. **If you do not do them, you will be disqualified from the competition.**
- ▶ All applicants, including applicants in communities impacted by **COVID-19**, must meet these requirements.

- a. Draft Analysis of Brownfields Cleanup Alternatives
- b. Community Notification Ad
- c. Public Meeting
- d. Submission of Community Notification Documents



- a. Draft Analysis of Brownfields Cleanup Alternatives (ABCA)
*template on website
- You **must attach a Draft ABCA** to your application.
 - Your ABCA must briefly summarize information about:
 - ✓ The site, contamination issues, cleanup standards, and applicable laws;
 - ✓ The cleanup alternatives considered and deliverables for each alternative.
 - ✓ The proposed cleanup.
 - The information in your ABCA should be coordinated with your response to **Ranking Criterion 3.a. – Proposed Cleanup Plan**.
 - If you have a **multi-site** application, you must include a draft ABCA for **each site**.

b. Community Notification Ad

- You **must publish an ad** in your local newspaper or an equivalent means customarily used to communicate with the target community(ies) no later than **October 14, 2020**.
- Your ad must clearly indicate:
 - ✓ That a copy of this grant application, **including the draft ABCA**, is available for public review and comment;
 - ✓ How to comment on the draft application;
 - ✓ Where the draft application is located (e.g. town hall, library, website, etc.); and
 - ✓ The date and time of a **public meeting** you will hold prior to submittal of this application.

b. Community Notification Ad (continued)

- Make sure all targeted communities receive notification and have an opportunity to provide comments.
- If you are proposing more than one cleanup site, you may prepare a single community notification ad and conduct one meeting.



c. Public Meeting

- You must hold a public meeting to discuss the draft application and consider public comments **prior to submittal of your application**. A regularly scheduled community meeting is sufficient if enough time is provided to discuss the draft application.
- From the meeting, you must produce multiple deliverables showing proof of meeting, comments, and notes.
- The extent to which the proposed methods offer an alternative to in-person community engagement in the event of social distancing or other restrictions as a result of **COVID-19**. See [Socially Distant Engagement Ideas](#) for some options.

d. Submission of Community Notification Documents

- **You MUST attach the following to your application:**
 - ✓ A copy of the draft ABCA(s);
 - ✓ A copy of the ad (**showing the date of publication**) that demonstrates notification to the public and solicitation of comments;
 - ✓ The comments or a summary of the comments received;
 - ✓ Your response to those public comments;
 - ✓ Meeting notes or summary from the public meeting(s); and
 - ✓ Meeting sign-in sheets/participant list.

- ▶ Cleanup grant recipients are required to provide a **20% cost share** (e.g., \$40,000 for a \$200,000 grant or \$100,000 for a \$500,000 grant).
- ▶ The Cost share must be in the form of a contribution of:
 - Money, Labor, Materials, Services from a non-federal source
- ▶ **Tribes, nonprofit organizations, and government entities with a population of 50,000 and fewer may petition EPA to waive the cost share.**
- ▶ See [EPA Region 1 Cost Share](#) presentation for more information.

- a. Describe your plans for meeting the cost share, including the sources of the funding and/or services.
- b. Hardship Waiver (**Cleanup Guidelines P. 27**)
 - If you are requesting a hardship waiver of the cost share, provide an explanation for the basis of your request as part of your application.
 - This explanation must be **submitted on a separate page, titled "Hardship Waiver Request"**, as an attachment to your application.
 - If you are concerned about meeting the cost share, don't hesitate to ask for the waiver.
 - You must provide a response to part a. in case you do not receive a hardship waiver.

QUESTIONS?

▶ Step 1:

- Have an active, unique, Data Universal Numbering System (DUNS) number. Information found at <http://www.dnb.com/>.
- Have an active System for Award Management (SAM) account in www.sam.gov **BEFORE** you submit, **AND** throughout the application, award and cooperative agreement time frame.
- Be registered in www.grants.gov.
- Have your designated organization's AOR be available to submit your application by the due date.

▶ Step 2:

- Have your AOR submit your application via www.grants.gov no later than 11:59 pm ET on **October 28, 2020**.
- See **Appendix 1** on **pages 52-56** of the **Cleanup Guidelines**.

► Helpful Tips:

- Make sure your organization's information is consistent with EPA, DUNS and SAM.
- The registration process for www.sam.gov and www.grants.gov can take up to a month or more so **Register ASAP.**
- **Applications received after the due date will not be considered.**

- ▶ Your application **must**:
 - Be in English.
 - Be typed, single-spaced, on letter sized paper (8 ½ x 11).
 - Use standard Times New Roman, Arial or Calibri fonts with a **12 point font size**.
- ▶ Do **NOT** include:
 - Color printing, photos, graphics, and unnecessary attachments
 - Attachments outside of threshold criteria and required items
- ▶ Excess pages **will be** removed and not evaluated.
- ▶ Check application submission checklist before submission.

- ▶ Logistics
 - Do not exceed 2 single-spaced pages.
 - Must be on your organization's **official letterhead**.
- ▶ Narrative Information Sheet **must address** all of the requested items. If something is not applicable, provide a statement to indicate that it does not apply.

- ▶ 1. Applicant Identification
- ▶ 2. Funding Requested
 - Note: Applicants will request **one funding amount** to address sites contaminated by hazardous substances and/or petroleum. You do not need to separate out the requests in this section.
- ▶ 3. Location
- ▶ 4. Property Information
- ▶ 5. Contacts
- ▶ 6. Population
 - Note: Population data available at census.gov.
- ▶ 7. Other Factors Checklist (**FAQs C. 4**)
 - If none of these factors are applicable to you, make sure you provide a statement to indicate that they do not apply.



- ▶ 8. Letter from the State or Tribal Environmental Authority
 - To request a letter from your State Brownfields Program Contact, please email the following information at **least 2 weeks** before the grant submittal deadline:
 - ✓ Grant(s) for which you are applying;
 - ✓ Site(s) for which you are applying; and
 - ✓ To whom the letter should be addressed.
 - CT: Go to [How to Request a State Letters from CT DEEP](#)
 - VT: Include Subject Line: "State Letter for EPA Brownfields Grant."

- ▶ 8. Letter from the State or Tribal Environmental Authority
 - NOT Acceptable:
 - ✓ General letters of correspondence
 - ✓ Letters from prior years
 - ✓ Documents evidencing state involvement (i.e., state enforcement orders or state notice letters)



QUESTIONS?

Contact Info

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EPA

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Contact Info

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Vermont

Trish Coppolino

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Department of Environmental
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Montpelier, VT 05620-3704
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Upcoming Sessions

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EPA New England

- ▶ **Multipurpose Threshold Criteria**

September 10, 2020 | 1:30 PM to 2:30 PM

- ▶ **Cleanup Ranking/Evaluation Criteria**

September 15, 2020 | 10:00 AM to 12:00 PM

- ▶ **Assessment Threshold/Ranking/Evaluation Criteria**

September 17, 2020 | 10:00 AM to 12:00 PM

- ▶ **Multipurpose Ranking Criteria**

September 17, 2020 | 1:30 PM to 3:00 PM

- ▶ **To register**, email your name, affiliation, community you are representing, and the session(s) you will be attending to R1Brownfields@epa.gov.





Roadmap to Mill Redevelopment Webinar Series

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The New Jersey Institute of Technology's Technical Assistance to Brownfields Program (NJIT TAB), in association with EPA Region 1 is offering a **free**, 4-part webinar series focused on the redevelopment of New England's iconic mills. This series will feature many, repurposed New England mills, as experts delve into the trials and triumphs of mill redevelopment.

Webinars will take place on September 24, October 6, October 15 & October 27, 2020.

Go to <https://www.njit.edu/tab/news#Mills> for more information.



BROWNFIELDS 2021

SUSTAINABLE COMMUNITIES
START HERE

POSTPONED

We hope this message finds you well and healthy. EPA and ICMA are closely monitoring the Coronavirus (COVID-19) situation and are adapting our in-person conference experience in consideration of your health and safety. We look forward to seeing you at the **National Brownfields Training Conference** in Oklahoma City.

SAVE THE DATE: **OKLAHOMA CITY, OK | APRIL 27-30, 2021**



REVITALIZING NEW ENGLAND: BROWNFIELDS SUMMIT 2021



OCTOBER 6 & 7, 2021
Devens Common Center | Devens, MA

