ATTACHMENT A

Eligible and Non-eligible Project Costs under Brownfields Cleanup Revolving Loan Fund (RLF) Programs

1. Eligible Uses of Loan Funds

The Brownfields Cleanup RLF loan and subgrant funds have been designated by the U.S. EPA for site ***cleanup*** activities only, as defined in CERCLA §101(23) and as described in 40 CFR §300.415. These activities include but are not limited to those listed below:

a. Removing, mitigating, or preventing the release or threat of a release of a hazardous substance, pollutant, or contaminant;
b. Oversight of cleanup activities;
c. Installation of fences, warning signs, or other security or site control precautions;
d. Installation of drainage and dust controls;
e. Stabilization of berms, dikes, or impoundments; or drainage or closing of lagoons;
f. Capping of contaminated soils;
g. Using chemicals and other materials to retard the spread of the contaminant release or mitigate its effects;
h. Excavation, consolidation, or removal of contaminated soils;
i. Removal of drums, barrels, tanks, or other bulk containers that contain or may contain hazardous substances, pollutants, or contaminants;
j. Removal of source materials, including free product recovery;
k. Containment, treatment, or disposal of hazardous materials;
l. Site monitoring activities, including sampling and analysis that are reasonable and necessary during the cleanup process to determine the effectiveness of the cleanup;
m. Site assessment activities that are reasonable, necessary, and incidental to the cleanup process, such as confirmation sampling;
n. Costs associated with documenting the Analysis of Brownfields Cleanup Alternatives (ABCA);
o. Costs associated with meeting public participation, worker health and safety, and programmatic management requirements;
p. Cleanup actions associated with removing, mitigating or preventing the release or threat of release of a hazardous substance, pollutant or contaminant; and
q. Purchase of environmental insurance, if such insurance is necessary to carry out cleanup activities;
r. Preparation and submittal of cleanup response action documents required under the Maine DEP Voluntary Response Action Program (VRAP); and
s. Hiring a Qualified Environmental Professional to manage response actions.

2. Ineligible Sites

Brownfields RLF loan and subgrant funds may not be used for the following sites:

a. Properties listed, or proposed for listing, on the National Priorities List (Superfund sites);
b. Properties whose owners are currently or were previously in environmental non-compliance;
c. Properties whose owners have been suspended, debarred, or declared ineligible for federal financial assistance programs;
d. Properties whose owners are currently delinquent in taxes, loan payments, or other indebtedness to the State of Maine or any political subdivision;
e. Properties at which a removal action must be taken within six (6) months (i.e., time critical removal action);
f. Properties for which a federal or state agency is planning or conducting a response or enforcement action; or
g. Properties contaminated by petroleum products, except to address a hazardous substance contamination problem (e.g., co-mingled waste.)

3. Ineligible Uses of Loan Funds

Brownfields RLF loan and subgrant funds may not be used for the following purposes:

a. Pre-cleanup environmental assessment activities, such as site assessment, identification, and characterization, with the exception of site monitoring activities as described in Section 3;
b. Cleanup of naturally occurring substances, products that are part of the structure of and result in exposure within residential buildings or business or community structures (e.g., interior lead-based paint contamination or asbestos which results in indoor exposure), or public or private drinking water supplies that have deteriorated through ordinary use, except as determined on a site-by-site basis and approved by U.S. EPA Headquarters, consistent with CERCLA §104(a)(3) and (4);
c. Cleanup at a Brownfields site for which the recipient of the loan is potentially liable under CERCLA §107;
d. Monitoring and data collection necessary to apply for or comply with environmental permits under other federal and state laws, unless such a permit is required as a necessary or essential component of the cleanup action;
e. Construction, demolition, and development activities that are not cleanup actions (e.g., marketing of property or construction of a new non-cleanup facility);
f. Cost sharing or matching requirement for another federal grant (absent statutory authorization);
g. Support of job training;
h. Support of lobbying or fund-raising efforts of the borrower;
i. Payment of a penalty or fine; or
j. Payment of an administrative cost, whether direct or indirect. The Brownfields Law prohibits the use of any "part of a grant or loan" for the payment of an administrative cost.