

# How to Obtain a BUSTR Letter of Support for U.S. EPA Brownfield Grants under Subtitle A

Ohio applicants to U.S. EPA for petroleum brownfield funding under Subtitle A must include a letter from BUSTR as part of their proposal to perform grant activities. This is one of the Threshold Criteria; threshold criteria are all pass/fail. If applying for multiple types of grant program activities, the applicant need only submit one letter. However, a copy of the letter must be attached to each proposal. Additionally, BUSTR is responsible for determining if the property is eligible for funding.

## **Petroleum Eligibility**

Generally, the Law allows EPA to award brownfields grant funds for the assessment and cleanup of petroleum-contaminated sites that meet the definition of "brownfield site" in CERCLA § 101(39)(A)-(C) and that: 1) EPA or the state determines are of "relatively low risk" compared with other petroleum-contaminated sites in the state; 2) EPA or the state determines have no viable responsible party and that will be assessed, investigated, or cleaned up by an entity that is not potentially liable for cleaning up the site; and 3) are not subject to a Resource Conservation and Recovery Act (RCRA) 9003(h) order. EPA must make available 25 percent of the total grant funds for the assessment and/or cleanup of petroleum-contaminated sites. EPA has designed these guidelines to allow applicants to specify the amount of funding that will be used at petroleum-contaminated sites.

To obtain a support letter from BUSTR, the applicant will need to provide the following:

**[Note: All items below must be included in your state support letter request (if applicable) and should be on letterhead from the eligible applicant. Please refer to the grant proposal guidelines at <http://www.epa.gov/brownfields/applicat.htm> to determine applicability.]**

- Type(s) of grants and dollar amount(s) proposed in your application.
- Project name(s) and all historical names for all parcels included in your application.
- Location(s), specific street addresses, and property owner(s), including a brief history of each site.
- Community needs (one paragraph).
- Proposed use of Subtitle A funds, and leveraging of additional resources (one paragraph).
- Expected benefits (one paragraph).
- Current and Immediate Past Owners. For purposes of petroleum eligibility determinations in these Guidelines only, the current owner is the entity that will own the site on June 30, 2009.
- Acquisition of Site. Identify when and by what method the current owner acquired the property (*e.g.*, purchase, tax foreclosure, donation, eminent domain).
- No Responsible Party for the Site. Identify whether the current and immediate past owner (which includes, if applicable, the applicant) (1) dispensed or disposed of petroleum or petroleum product, or exacerbated the existing petroleum contamination at the site, and (2) took reasonable steps with regard to the contamination at the site.
- Cleaned Up by a Person Not Potentially Liable Identify whether you (the applicant) dispensed or disposed of petroleum or petroleum product, or exacerbated the existing petroleum contamination at the site, and whether you took reasonable steps with regard to the contamination at the site.
- Relatively Low Risk Identify whether the site is of "relatively low risk" compared to other petroleum or petroleum product-only contaminated sites in the state in which the site is located, including whether the site is receiving or using Leaking Underground Storage Tank (LUST) Trust Fund monies.
- Judgments, Orders, or Third Party Suits. Provide information that no responsible party (including the applicant) is identified for the site through, either:
  - A judgment rendered in a court of law or an administrative order that would require any person to assess, investigate, or clean up the site; or
  - An enforcement action by federal or state authorities against any party that would require any person to assess, investigate, or clean up the site; or
  - A citizen suit, contribution action or other third party claim brought against the current or immediate past owner, that would, if successful, require the assessment, investigation, or cleanup of the site.
- Subject to RCRA Identify whether the site is subject to any order under section 9003(h) of the Solid Waste Disposal Act.
- Financial Viability of Responsible Parties For any current or immediate past owners identified as responsible for the contamination at the site, provide information regarding whether they have the

financial capability to satisfy their obligations under federal or state law to assess, investigate or clean up the site. **Note:** *If no responsible party is identified in (c) or (f) above, then the petroleum-contaminated site may be eligible for funding. If a responsible party is identified above, EPA or the state must next determine whether that party is viable. If any such party is determined to be viable, then the petroleum-contaminated site may not be eligible for funding.*

**If you are unable to obtain information on any of the above questions, you must include a brief explanation of why the information requested above is not available.**

Support letter information should be submitted by **September 28, 2009** to:

Verne Ord, Assistant Chief  
The Ohio Department of Commerce  
Division of State Fire Marshal  
**Bureau of Underground Storage Tank Regulations**  
8895 East Main Street  
Reynoldsburg, OH 43068  
Phone: (614) 752-7938  
E-mail: [Verne.ORD@com.state.oh.us](mailto:Verne.ORD@com.state.oh.us)