



## Liability Reference Guide for Siting Renewable Energy on Contaminated Properties

The U.S. Environmental Protection Agency (EPA) recognizes the overall environmental benefits of siting renewable energy projects on contaminated properties<sup>1</sup> and developed this reference guide to provide answers to some common questions that developers<sup>2</sup> of renewable energy projects on contaminated properties may have regarding potential liability for cleaning up these properties. This document addresses potential liability issues, summarizes available resources and policy tools, and facilitates these types of projects. The appendix lists EPA programs and reference documents that may be relevant to developers considering renewable energy projects on contaminated properties.

### Key Messages for Developers of Renewable Energy Projects

The vast majority of contaminated properties requiring cleanup are most likely to be addressed by state cleanup programs. Generally, only contaminated properties with significant actual or potential public health and/or environmental impacts or those needing immediate attention are expected to warrant federal cleanup or enforcement under CERCLA or RCRA.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) includes several self-implementing landowner liability protections and generally limits federal CERCLA enforcement against parties who are cleaning up certain contaminated properties in compliance with a state response program. EPA approval is not required for these liability protections and limitations to take effect for parties who meet the statutory requirements.

The EPA has developed a variety of enforcement discretion policies and property-specific documents to encourage cleanups and facilitate contaminated property transactions and revitalization.

Not all leases trigger CERCLA liability for tenants (also referred to as lessees). To address concerns about potential CERCLA liability, the EPA issued enforcement discretion guidance and accompanying model comfort letters regarding the treatment of tenants under CERCLA's Bona Fide Prospective Purchaser provision.

The EPA will work with developers on a renewable energy project to address potential lessee liability issues and to determine whether a property-specific document from the EPA may be needed.

The EPA encourages developers to consult with legal counsel and the appropriate state, tribal or local environmental protection agency before taking any action to acquire, cleanup, or redevelop contaminated property.

<sup>1</sup> For purposes of this reference guide, the term "contaminated properties" is meant broadly and includes contaminated, potentially contaminated, and formerly contaminated properties.

<sup>2</sup> For purposes of this reference guide, the term "developer" is meant broadly and includes financing parties, project developers, and other interested parties.



## Overview of CERCLA and RCRA

Two principal federal laws address the handling, disposal, and cleanup of hazardous waste:

### **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)**

CERCLA, commonly known as Superfund, authorizes the federal government to assess and clean up properties contaminated with hazardous substances. CERCLA establishes a “joint and several” liability scheme to hold certain categories of parties, including owners and operators, liable for the cost or performance of the cleanup. In 2002, CERCLA was amended to provide certain landowner liability protections for parties who own or acquire contaminated property in exchange for responsible stewardship.

### **Resource Conservation and Recovery Act (RCRA)**

RCRA regulates how solid wastes (both hazardous and non-hazardous) are managed to protect human health and the environment, and includes authorities for the investigation and cleanup of RCRA facilities.

The EPA maintains a [Cleanup Enforcement website](#) with current information related to Superfund, RCRA, and Brownfields and Revitalization. This website summarizes the statutory and regulatory provisions of the cleanup enforcement program, as well as the policy and guidance documents relevant to managing environmental cleanup liability risks associated with the revitalization of contaminated sites. In addition, this information is summarized in the EPA’s [Revitalization Handbook](#) that is designed for use by parties involved in the assessment, cleanup, and revitalization of sites and provides a basic description of the tools which may be available to parties to address liability concerns.

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*CERCLA, 42 U.S.C. §§ 9601 et seq.*

*Small Business Liability Relief and Brownfields Revitalization Act, Pub. L. 107-118 (Jan. 11, 2002).*

*RCRA, 42 U.S.C. §§ 6901 et seq.*

## **Will I be held liable by the EPA (or a state) if I develop a renewable energy project on a contaminated property?**

To promote the numerous environmental, public health, and economic benefits associated with cleaning up and reusing previously developed property, the EPA and states developed brownfields and land revitalization programs. Accordingly, many state and federal laws and policies were changed to address, and in certain situations provide protection against, the liability risk associated with the reuse of contaminated properties, particularly for parties who wish to reuse property that they did not contaminate. These protections may be applicable to address the potential liability concerns of a developer of renewable energy on contaminated property. In addition, the EPA has developed a variety of mechanisms, including policy and guidance and property-specific documents to address potential liability concerns and uncertainty, some of which are discussed in this reference guide.

Notwithstanding these statutory changes and efforts by federal and state governments, many prospective purchasers, developers, and lenders report hesitation concerning involvement with contaminated properties in fear that they may be liable under federal or state cleanup laws.



However, relatively few contaminated properties involve cleanup or enforcement under CERCLA and RCRA.

Generally, only contaminated properties with significant actual or potential public health and/or environmental impacts or those needing immediate attention are likely to warrant federal cleanup. These may include:

- sites on the Superfund National Priorities List (NPL);
- sites where the EPA has completed or is undertaking CERCLA cleanup activities;
- facilities subject to RCRA corrective action or post-closure care;
- contaminated sites in Indian country; and
- federally-owned sites requiring CERCLA or RCRA cleanup.

The majority of cleanups are performed under state authority and do not require EPA involvement. State response programs play a significant role in assessing and cleaning up lower-risk contaminated properties (see insert below). While individual states are the best source of information about their land cleanup and revitalization laws and programs, the EPA will work with parties on a renewable energy project to determine which agency has oversight responsibility for the property.

Whether a federal or state law or policy applies to a purchaser or lessee will depend on the facts and circumstances of each case, including, among other things, the developer's conduct with respect to any contamination on the property. The remainder of this reference guide will address issues associated with CERCLA and RCRA liability.

### State Cleanup Programs

The vast majority of properties requiring cleanup are most likely to be addressed by state cleanup programs, such as state Superfund, brownfields, voluntary cleanup programs (VCPs), and landfill or underground storage tank (UST) programs.

VCPs are typically the state authority used to address brownfields and other lower-risk sites. CERCLA §128 formally recognizes the significant state role in assessment and cleanup of brownfields sites. To encourage the use of VCPs at lower-risk sites, the EPA enters into Memoranda of Agreement (MOAs) with states.

MOAs define EPA and state roles and responsibilities. VCP MOAs do not alter legal rights or responsibilities, but rather recognize a state's capabilities and, where appropriate, offer general enforcement assurances to individual states to encourage the assessment and cleanup of sites addressed under VCP oversight.

CERCLA's "enforcement bar" also limits enforcement against parties who are cleaning up "eligible response sites" in compliance with a state response program. CERCLA includes exceptions to this enforcement bar under specific circumstances.

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*More information on VCPs is available on the EPA's [State Voluntary Cleanup Program](#) website. The "enforcement bar" is contained in CERCLA § 128(b). "Eligible response sites" are defined at CERCLA § 101(41). CERCLA § 128(b)(1)(B)(i)-(iv) describes the four exceptions to the enforcement bar.*



## RE-Powering America's Land Initiative

The EPA's RE-Powering America's Land Initiative ("RE-Powering Initiative") encourages renewable energy development on current and formerly contaminated lands, landfills, and mine sites when it is aligned with the community's vision for the property. Utility-scale renewable energy facilities that often require large amounts of land are well suited for former commercial and industrial properties that remain unused or underutilized because of perceived or real concerns about contamination and liability.

The RE-Powering Initiative seeks to encourage the productive reuse of these properties by identifying their renewable energy potential; providing useful resources for communities, developers, industry, state and local governments, or anyone interested in reusing these properties for renewable energy development; and addressing contamination and liability issues.

The EPA has identified more than 66,000 EPA- and state-tracked contaminated properties and mine sites (comprising over 35 million acres) with the potential for development as solar, wind, biomass, and/or geothermal facilities. The [RE-Powering America's Land mapping and screening tools](#) provide information about renewable energy potential on contaminated property.

Use of contaminated property for renewable energy development offers many potential benefits. For example, it may:

- preserve greenspace;
- provide developers with access to existing grid connection and other infrastructure;
- allow the location of generation facilities to be closer to the electrical load;
- create jobs;
- garner support from local communities; and
- enable properties to return to productive and sustainable use.

The [RE-Powering America's Land](#) website highlights [renewable energy success stories](#) which features case studies and discussions on how key challenges were met. The RE-Powering Initiative also maintains a [Project Tracking Matrix \(PDF\)](#) (16 pp, 2.74 MB, [About PDF](#)) that lists completed renewable energy installations on contaminated sites and landfills.

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*More information on RE-Powering can be found at the EPA's [RE-Powering America's Land Initiative](#) website.*

## Will I be held liable by the EPA (or a state) if I purchase contaminated property to develop a renewable energy project?

CERCLA's "polluter pays" liability scheme ensures that parties who are responsible for contamination, often referred to as potentially responsible parties (PRPs), rather than the general public, pay to clean up the contamination. As described in the statute, the following categories of persons can be held liable for the costs or performance of a cleanup under Section 107 of CERCLA:

- the current owner or operator of a facility;
- an owner or operator at the time of disposal;



- a person who arranged for the disposal or treatment of hazardous substances (“generator” or “arranger”); and
- a person who accepted hazardous substances for transport and selected the site to which the substances were transported (“transporter”).

To encourage cleanup and redevelopment, CERCLA was amended in 2002 to provide landowner liability protections for parties who own or acquire contaminated property, including “bona fide prospective purchasers” (BFPPs)<sup>3</sup> and “contiguous property owners,”<sup>4</sup> and also modified CERCLA’s existing liability defense provision for “innocent landowners.”<sup>5</sup>

**A party seeking BFPP protection must:**

- Have acquired the property after January 11, 2002;
- Establish that all disposal of hazardous substances took place before acquisition;
- Have conducted “All Appropriate Inquiries” (AAI) in compliance with federal regulations before acquiring the property;
- Not otherwise be liable or affiliated with any other person that is potentially liable for the property’s cleanup costs;
- Take reasonable steps to prevent releases of hazardous substances found at the property;
- Provide cooperation, assistance, and access to the property for the EPA or others undertaking cleanup work;
- Comply with CERCLA information requests and subpoenas;
- Provide all legally required notices;
- Not impede any cleanup work or natural resource restoration; and
- Comply with land use restrictions and not impede the effectiveness or integrity of institutional controls placed on the property to prevent the spread or release of contaminants.

*CERCLA §§ 101(40)(A)-(H) and 107(r)(1).*

*These provisions are self-implementing. EPA involvement is not required for these liability protections to take effect for parties who meet the statutory requirements.* In 2003, the EPA issued guidance to address the criteria and obligations landowners must meet to obtain liability protection from Superfund.<sup>6</sup>

The BFPP provision applies to parties who purchase contaminated property even with knowledge of the contamination (see below for discussion of lessees). In order to remain protected from CERCLA liability for existing contamination at the property, a new purchaser must achieve and maintain BFPP status (see insert left).

Since 2008, all states have established programs or policies to provide some level of liability protection to new owners who are not responsible for past contamination in specific situations.

<sup>3</sup> CERCLA §§ 101(40)(A)–(H) and 107(r)(1).

<sup>4</sup> CERCLA § 107(q).

<sup>5</sup> CERCLA §§ 107(b)(3) and 101(35)(A).

<sup>6</sup> The “[Interim Guidance Regarding Criteria Landowners Must Meet in Order to Qualify for Bona Fide Prospective Purchasers, Contiguous Property Owner, or Innocent Landowner Limitations on CERCLA Liability \(“Common Elements”\)](#)” (March 6, 2003), describes the overlapping threshold criteria and ongoing obligations applicable to all three landowner protections.

## **Will I be held liable by the EPA (or a state) if I lease contaminated property to develop a renewable energy project?**

Although not all leases trigger CERCLA liability for tenants (also referred to as lessees), parties who lease or develop contaminated property should recognize the potential to incur liability as a current operator under CERCLA, even if they did not cause or contribute to the original contamination. Potential liability concerns for renewable energy projects commonly arise when a developer leases contaminated property to build and operate a generation facility. For example, the installation of renewable energy infrastructure often may require activities such as grading or earth removal and the installation of footings, power lines, and other infrastructure. A developer will need to make a careful technical and legal analysis of the property and the proposed activities to determine whether these or other activities may exacerbate existing contamination or whether the appropriate “reasonable steps” are being taken to achieve and maintain CERCLA liability protection.

The EPA issued guidance (discussed below) as to how the Agency intends to exercise its enforcement discretion to treat certain tenants as BFPPs (“Revised Tenants Guidance”).<sup>7</sup> The EPA may work with parties on a renewable energy project to address potential lessee liability issues by providing property-specific information or documents as discussed below.

### **Tenants Where the Owner is a BFPP**

Tenants may have BFPP protection from CERCLA liability if they enter into a lease with an owner who is itself a BFPP. A tenant may derive BFPP status from an owner so long as the owner achieves and maintains its BFPP status, all disposal of hazardous substances occurred before acquisition, and the tenant does not impede any cleanup work or natural resource restoration.

As explained in more detail in the EPA’s Revised Tenants Guidance, if the owner loses its own BFPP status through no fault of the lessee, the EPA intends to exercise its enforcement discretion on a property-specific basis and not pursue the lessee so long as the lessee meets the BFPP liability provisions discussed above, with the exception of the AAI provision.<sup>8</sup>

### **Tenants Where the Owner is Not a BFPP**

Many developers who lease contaminated property for renewable energy projects may not lease from a BFPP. As explained in more detail in the EPA’s Revised Tenants Guidance, if the owner is not a BFPP, the EPA intends to exercise its enforcement discretion on a property-specific basis to treat the tenant as a BFPP when the tenant itself meets all the BFPP provisions in CERCLA §§ 101(40)(A)–(H) and 107(r)(1).<sup>9</sup> Notwithstanding CERCLA’s requirement that a person must

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<sup>7</sup> See [“Revised Enforcement Guidance Regarding the Treatment of Tenants Under the CERCLA Bona Fide Prospective Purchaser Provision”](#) (“Revised Tenants Guidance”) (Dec. 5, 2012).

<sup>8</sup> Although there is no All Appropriate Inquiries (AAI) requirement for a tenant with derivative BFPP status, a tenant may need to obtain information on the prior uses of the property to have an informed basis on which to comply with the other BFPP requirements.

<sup>9</sup> See [Revised Tenants Guidance](#) at p. 4-5.



have acquired ownership of a property after January 11, 2002 in order to qualify for BFPP liability protection, the EPA intends to exercise its enforcement discretion and treat tenants as BFPPs if their lease agreement was executed after that date so long as they also meet the other BFPP provisions.<sup>10</sup>

### **State Liability Protections**

States oversee the cleanup of most contaminated properties through cleanup programs such as state Superfund, brownfields, VCPs, and UST programs. These programs facilitate the reuse of these properties by providing liability protections for new owners. These protections also may be applicable to lessees. The EPA recommends that prospective lessees contact the relevant or appropriate state environmental protection agency in the state where the contaminated property is located to discuss available state liability protections for lessees.

### **Does RCRA provide similar liability protections for parties who are developing renewable energy projects on contaminated property?**

RCRA does not contain a BFPP or similar landowner liability protection provision for purchasers of contaminated property. However, subject to enforcement discretion and resources, the EPA may be able to use some of its property-specific documents (see discussion below) to address potential RCRA liability concerns for parties developing renewable energy projects on contaminated properties. Further, interested parties also may be able to work with their respective states or the EPA to separate the ownership of an UST from the ownership/lease of the land.

#### **Federal Facilities**

With respect to federal facilities, CERCLA provides transferees of federally-owned property additional statutory protections. Federal law provides that the Secretary of Defense shall hold harmless and indemnify persons (including lessees) that acquire ownership or control of any facility at a military installation that is closing or closed pursuant to a base closure law from any claim for personal injury or property damage that results from the release or threatened release of hazardous substances, petroleum, or petroleum derivatives.

The indemnification does not apply to persons and entities that contributed to any release or threatened release or with respect to contamination disposed of at the property after the period of federal ownership.

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*CERCLA §§ 120(h)(3) and (4) provides that certain deeds shall warrant all necessary remedial action has been taken before the transfer and that the United States will conduct all additional remedial action found to be necessary after the transfer. See also, Section 330, National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102-484, as amended, 10 U.S.C. § 2687.*

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<sup>10</sup> See [Revised Tenants Guidance](#) at p. 4-5. See also CERCLA § 101(40).



**I believe my project will not trigger cleanup liability. Can I obtain documentation to confirm that the EPA (or the state) will not hold me liable?**

State VCPs frequently will provide property-specific liability protection (e.g., covenants not-to-sue or no-action letters, sometimes accompanying certificates of completion) to entities seeking to purchase, lease, or otherwise become financially involved in reusing contaminated property. These property-specific tools typically work best at properties where significant environmental assessment work has already occurred and where information is available regarding the nature and extent of the contamination.

Given that most contaminated properties are addressed under state programs and that the CERCLA landowner liability protections are self-implementing, in most cases, the EPA typically does not get involved in private property transactions to address an entity’s potential CERCLA liability. However, the EPA will work with parties on a renewable energy project to determine whether a property-specific document from the EPA may help to facilitate a transaction.

The EPA has developed a variety of property-specific informational documents for Superfund and RCRA properties designed to encourage cleanups and facilitate contaminated property transactions and revitalization by parties not responsible for the contamination. One example of these property-specific documents is comfort/status letters. Comfort/status letters are intended to provide parties with information the EPA has about a contaminated property, the EPA’s intentions with respect to any cleanup activities, and potentially applicable Agency policies as of the date of the letter. The “comfort” comes from a greater understanding of what the EPA currently knows about the property and helps parties make more informed decisions as they move forward with property development.

**EPA Property-Specific Documents**

- Comfort/Status Letters
- Ready for Reuse Determinations
- Superfund NPL Partial Deletions
- BFPP Work Agreements
- Prospective Purchaser Agreements
- Prospective Lessee Agreements
- Windfall Lien Resolution Agreements
- Contiguous Property Owner No Action Assurance Letters and Agreements

For more information visit, the EPA’s [Brownfields and Land Revitalization Cleanup Enforcement website](#).

The Agency issued three model comfort/status letters for use by the Regions when drafting property-specific letters for lessees involved in renewable energy projects on contaminated lands: (1) Model Federal Superfund Interest and No Current Federal Superfund Interest Comfort/Status Letter; (2) Model No Previous Federal Interest Comfort/Status Letter; and (3) Model State Action Comfort/Status Letter. These model letters are publically available on the EPA’s enforcement website, and interested parties are encouraged to review them in order to see the types of information needed by the Agency to draft such letters.<sup>11</sup>

<sup>11</sup> The [model comfort/status letters for renewable energy lessees](#) were transmitted with the Revised Tenants Guidance.



The comfort/status letter also may discuss “reasonable steps” that a developer who is purchasing or leasing property may need to take to ensure protectiveness of human health and the environment and achieve and/or maintain liability protection. The EPA believes Congress did not intend to create, as a general matter, the same types of cleanup obligations for a BFPP that exist for a liable party under CERCLA. Nevertheless, it also seems clear that Congress did not intend to allow a landowner to ignore the potential dangers associated with hazardous substances on its property.<sup>12</sup> For example, a reasonable steps comfort/status letter to a renewable energy developer may identify steps to take when installing solar panels on a soil or engineered cap to avoid exacerbating existing contamination and potentially triggering CERCLA liability. If site conditions change or new information becomes available, the developer may need to take new reasonable steps – in addition to those previously identified by the EPA in its reasonable steps comfort/status letter – to ensure continued protectiveness and maintain BFPP status.

Generally, the EPA’s comfort/status letters are available in situations where such documents may facilitate the cleanup and redevelopment of contaminated properties, where there is a realistic concern of Superfund or RCRA liability, and where there is no other mechanism available to adequately address the party’s concerns. In addition, the EPA anticipates that it will include recommended property-specific reasonable steps in comfort/status letters for sites with significant federal involvement which provides the EPA with enough information to form a basis for suggesting reasonable steps (*e.g.*, the site is on the NPL or the EPA has conducted or is currently conducting a removal or remedial action on the site).

In very limited circumstances, the EPA also may enter into administrative agreements concerning the property to address potential CERCLA and/or RCRA liability concerns. These may include BFPP work agreements, prospective purchaser agreements, prospective lessee agreements, windfall lien resolution agreements, contiguous property owner agreements, and contiguous property owner no action assurance letters.<sup>13</sup> While the EPA believes the need for these types of agreements has been largely addressed by the self-implementing landowner liability protections and the EPA’s enforcement discretion guidance, the Agency recognizes that in limited circumstances, a property-specific agreement may be appropriate to facilitate a desirable reuse of a property.

In accordance with EPA guidance, the EPA generally considers issuing these documents for properties that are the subject of planned, ongoing, or previous federal cleanup or enforcement actions under CERCLA or RCRA. The EPA recognizes that renewable energy projects may involve activities that could raise liability concerns. Thus, direct consultation is recommended with the EPA’s RE-Powering Initiative team members, the EPA’s enforcement and compliance staff, and relevant state environmental protection agency staff to gather property-specific information and identify property-specific recommendations or reasonable steps. A list and contact information for EPA staff who can assist you is available on the [EPA RE-Powering America’s Land Rapid Response Team](#) webpage.

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<sup>12</sup> See [Common Elements](#) at p. 10.

<sup>13</sup> For information on the EPA’s property-specific agreements is available on the EPA’s [Brownfields and Land Revitalization Cleanup Enforcement](#) webpage.



## **Are there other mechanisms available to provide liability relief to purchasers and lessees who are not responsible for causing the contamination?**

In addition to the self-implementing CERCLA landowner liability protections, EPA guidance, and property-specific documents discussed in this reference guide, there are various private arrangements that may be available to manage environmental liability risks associated with the reuse of contaminated properties. However, the existence of a private agreement generally does not affect the way the EPA or a particular state determines whether a party is a PRP and/or the decision whether to pursue an enforcement action against that party. It is always advisable to seek legal advice before purchasing or leasing contaminated property.

### **Lender and State/Local Government Protections**

Renewable energy projects, like other redevelopment, often require loans. CERCLA includes liability exemptions for certain lenders and others who hold secured interests in property and for state or local governments that involuntarily acquire contaminated property (e.g., through bankruptcy, foreclosure, or abandonment) and did not cause or contribute to the contamination.

RCRA Subtitle I (addressing USTs) contains a “security interest exemption” that provides secured creditors (i.e., lenders) a limited statutory exemption from corrective action liability for releases from petroleum USTs. The EPA’s 1995 UST Lender Liability Rule lays out the specific conditions under which certain secured lenders may be exempted from RCRA Subtitle I regulatory requirements including corrective action, technical requirements, and financial responsibility.

Under CERCLA, a unit of state or local government will not be considered an owner or operator of contaminated property (and thus is exempt from potential CERCLA liability as a PRP) if the state or local government acquired ownership or control involuntarily. CERCLA also provides an innocent landowner defense for state and local governments that have acquired contaminated property “involuntarily” or through certain other mechanisms.

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*CERCLA § 101(20)(E) addresses lenders holding indicia of ownership to protect security interests.*

*For RCRA lenders, see the Solid Waste Disposal Act § 9003(h)(9), 42 U.S.C. § 6991b, 40 C.F.R. § 280.200-300. Additional information on the [UST Lender Liability Rule](#) is available on GPO’s website.*

*State and local government liability provisions are found in CERCLA § 101(20)(D) and CERCLA § 101(35)(A)(ii), in*

## **Who can I contact to discuss my liability concerns or to find out more information about the RE-Powering America’s Land Initiative?**

The EPA has a national team in place to implement the RE-Powering Initiative. There are a number of ways to find out more information or to get in contact with a team member. For general information, please visit [www.epa.gov/renewableenergyland](http://www.epa.gov/renewableenergyland) or contact the EPA’s Center for Program Analysis at [cleanenergy@epa.gov](mailto:cleanenergy@epa.gov). For a list and contact information for EPA staff who can assist you, please visit the [EPA RE-Powering America’s Land Rapid Response Team](#) webpage on the Internet. Staff from one of the EPA’s ten Regional offices may also be able to provide information and assistance to parties with questions about siting renewable energy



development on contaminated properties located in a Region's jurisdiction, particularly on federal sites. Contact information for staff from the EPA's Office of Site Remediation Enforcement who can help address concerns about potential liability associated with such activities is also available on the RE-Powering Initiative website.

The EPA also encourages you to consult with your legal counsel and with the appropriate state, tribal or local environmental protection agency before taking any action to acquire, cleanup, or redevelop contaminated property.

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*Disclaimer: This reference guide is provided solely as general information regarding liability in response to questions frequently raised by parties considering the purchase or lease of a contaminated property. It describes and summarizes statutory provisions, regulatory requirements, and EPA policy and guidance. This document is not a substitute for the preceding and it does not provide legal advice, have any legally binding effect, or expressly or implicitly create, expand, or limit any legal rights, obligations, responsibilities, expectations, or benefits for any person. It is the property owner's or lessee's sole responsibility to ensure compliance with applicable local, state and federal environmental requirements and to ensure that its use of a contaminated property does not interfere with or impede the property's cleanup or protectiveness, and participation in the EPA's RE-Powering America's Land Initiative does not alter this responsibility.*



## APPENDIX

### Relevant EPA Programs and Reference Documents

#### RE-POWERING AMERICA'S LAND INITIATIVE PROGRAM SITE AND MAPPING TOOL

[RE-Powering America's Land Initiative](#) website

[Renewable Energy Interactive Mapping Tool](#)

#### CLEANUPS IN MY COMMUNITY SITE

[Cleanups in My Community](#) website

#### ENFORCEMENT AND LIABILITY PROGRAM SITES AND DOCUMENTS

**Program Sites:**

[Brownfields and Land Revitalization Cleanup Enforcement](#) website

[Enforcement Tools that Address Liability Concerns for Brownfields and Land Revitalization](#) webpage

**Documents:**

[Fact Sheet: RE-Powering America's Land – Siting Renewable Energy on Contaminated Properties: Liability Considerations](#), December 2012

[Revised Guidance: Treatment of Tenants Under the CERCLA Bona Fide Prospective Purchaser \(BFPP\) Provision and Model Comfort/Status Letters for Lessees at Renewable Energy Projects](#), December 2012

[Fact Sheet: CERCLA Liability and Local Government Acquisitions and Other Activities](#), March 2011

[Revitalizing Contaminated Sites: Addressing Liability Concerns \(The Revitalization Handbook\)](#), June 2014

[Report: Top 10 Questions to Ask When Buying a Superfund Site](#), May 2008

[Fact Sheet: CERCLA Lender Liability Exemptions: Updated Questions and Answers](#), July 2007

[Interim Guidance and Fact Sheet: Criteria Landowners Must Meet in Order to Qualify for Bona Fide Prospective Purchaser, Contiguous Property Owner, or Innocent Landowner Limitations on CERCLA Liability \(Common Elements\)](#), March 2003

#### SUPERFUND PROGRAM SITES AND DOCUMENT

**Program Sites:**

[Superfund Redevelopment](#) website

[Re-energizing Contaminated Land: Alternative Energy Reuse at Superfund Sites](#) website

**Document:**

[Considering Reasonably Anticipated Future Land Use and Reducing Barriers to Reuse at EPA-lead Superfund Remedial Sites](#), March 2010

**APPENDIX**  
**Relevant EPA Programs and Reference Documents**

**BROWNFIELDS PROGRAM SITES**

[Brownfields](#) website

[State & Tribal Response Programs](#) website

[All Appropriate Inquiries Rule](#) webpage

**RCRA BROWNFIELDS PROGRAM SITE**

[RCRA Brownfields](#) website

**PETROLEUM AND UNDERGROUND STORAGE TANKS PROGRAM SITES AND REGULATION**

[Petroleum Brownfields](#) website

[Region, State, Tribal, and Local Underground Storage Tank Program Contacts](#) webpage

[UST Lender Liability Rule](#), 40 CFR Part 280, Subpart I - 280.200-280.230

**FEDERAL FACILITIES PROGRAM SITES AND DOCUMENTS**

**Program Sites:**

[Cleanups at Federal Facilities](#) website

[Restoration and Reuse at Federal Facilities](#) webpage

[Base Closure at Federal Facilities](#) webpage

**Documents:**

[Addendum to 1997 Policy Towards Landowners and Transferees of Federal Facilities](#), December 2006

[Policy Towards Landowners and Transferees of Federal Facilities](#), June 1997

[EPA Guidance on the Transfer of Federal Property by Deed Before All Necessary Remedial Action Has Been Taken Pursuant to CERCLA Section 120\(h\)\(3\) \(Early Transfer Authority Guidance\)](#), June 1996

**LONG-TERM STEWARDSHIP AND INSTITUTIONAL CONTROLS PROGRAM SITE AND DOCUMENT**

[Institutional Controls Guidance](#) webpage

[Report: Long Term Stewardship Task Force Report and the Development of Implementation Options for the Task Force Recommendations](#), September 2005