

Checklist for Evaluating 128(a) Successes

I. Introduction

As specified in the cooperative agreement terms and conditions, all Assessment, Cleanup, and Revolving Loan Fund (RLF), and State and Tribal Section 128(a) (for site-specific work), cooperative agreement recipients must report to EPA as soon as an accomplishment has occurred. State Brownfields Programs have long recognized the need for a more comprehensive means of reporting accomplishments in a manner which can be easily summarized for all the states to reflect the work which is being accomplished. Currently the ACRES database and the Program Activity Levels (PALs) are the only comprehensive nationwide summaries available; however a significant amount of work occurs which these measures do not capture. Furthermore, much of the success of the state's response and its ability to complete cleanup and ensure ICs are in place is attributable to work not captured by ACRES and PALs. Depending upon the state, the EPA region and how reporting is conducted on a regional basis, consistent nation-wide summaries may not be able to be compiled.

The Checklist attached to this document is meant to summarize the work accomplished during the reporting period that is not captured by ACRES and PALS. It is not meant to be a comprehensive compilation unless defined as such but rather a "snapshot taken" during that period. We realize that programs and needs vary from state to state (and territories) and therefore accomplishments will also vary so the Checklist not meant to be a "to do" list or goal to complete a task to obtain a number in every box but rather an improved manner to report accomplishments and to provide a means to easily summarize what is being done on a national level.

For example, regulation development or revision may extend over two years however that would only be reported once when the regulation becomes effective, however any public hearing including a public hearing for the regulations would be counted during the reporting period in which the hearing occurred. States are encouraged to report data when the information is available however if particular information is not available, or cannot be readily obtained that is also understood. It is also recognized that the 128(a) grant funds may support an activity however does not fully fund that particular activity. For example a state may hold a Brownfields Conference supported by 128(a) funding however state brownfield funds, sponsors, registration fees, all may contribute to funding the event, therefore since the event was partially supported by 128(a) funding it should be counted in the Checklist summary. All activities, regardless if they are fully or partially funded by your 128(a) grant, should be recorded, and counted if possible, in the attached Checklist.

It is also understood that certain sections such as Response Program Outcomes may be very time consuming or difficult to develop accurate data since these tasks are often not the core function

of the agency. Therefore, if an accurate number is unavailable for reporting, please insert N/A as appropriate.

To briefly summarize, the data in this Checklist is separate from the PALS and ACRES data and is meant to supplement that data. Ultimately further refinement and development of this checklist may entail merging the PALS values and maybe even some of the data from ACRES, however that is beyond the scope of this project.

II. Definitions

The definitions below correspond to all of the items, unless an item's definition is unambiguous, contained in the attached Checklist. Please refer to these definitions as you complete the Checklist for Evaluating 128(a) Successes.

Public Participation/Outreach Definitions

Workshops/Training – Educational opportunities designed, conducted or sponsored by your program. This includes, but is not limited to, classroom instructional events, webinars, self-paced training modules, design charettes and seminars.

Public Meetings and Hearings – Open meetings with interested or impacted parties that are held by your program in accordance to public notification laws and/or regulations.

Community/Private Entity Meetings – Meetings, calls or correspondence with community groups, local government, or private entities to share/exchange information about or to provide technical assistance regarding brownfield cleanup and/or redevelopment. These are not required by law or regulation and may be initiated by the program or by outside parties.

Held Conferences – Conferences or symposia events that were conducted or sponsored by your program.

Hosted Booths at Conferences – Exhibit opportunities during conferences held by an entity other than your program.

Presentations – Presentations about brownfield cleanup and/or redevelopment to private entities or groups of people that take place outside of conferences, trainings and meetings held by your program.

Email Blasts – E-mail communication sent to targeted lists of people to communicate information outside of a regular newsletter format.

Mailings – Brownfield-related informational materials including postcards, letters and notices mailed to multiple recipients at one time.

Newsletters – Brownfield related news publications in either paper or electronic format that are distributed on a regular, scheduled basis.

Social Media – Number of social media sites (Blogs, Facebook, Twitter, Linked-In, YouTube) that your program administers or regularly contributes to.

Other – Other outreach and education methods not captured in the categories above.

Public Record Maintenance/Enhancement Definitions

Total number of sites of sites on Inventory - the number of sites that were on your state inventory at the end of the reporting period. The inventory should provide a reasonable estimate of the number, approximate location and general characteristics of brownfields sites within the state.

New Sites Added – the number of new sites which were added to the inventory within the reporting period.

Web-Page/ Database Improvements – the number of substantive improvements to state web pages or databases. These improvements would be mechanisms and resources to provide meaningful opportunities for public participation. Examples of these improvements are providing access to site information, site documents, program information, guidance or fact sheets specific to the property and geospatial databases.

Cleanup Verification Definitions

Engineering Controls – controls that eliminate or reduce exposure to a chemical or physical hazard through the use or substitution of engineered machinery or equipment. Examples include caps, treatment systems, recovery systems, slurry walls.

Properties- could also be called “site/ disposal site/ or vessel” – the terms "site" and "vessel" are used to refer to a place or area from or at which a release of oil and/or hazardous material has occurred or where a threat of release exists; the term "disposal site" is used to refer to a place or area where an uncontrolled release of oil and/or hazardous material from or at a site or vessel has come to be located. Note: This definition of property is meant to be consistent with the definition States use when completing Program Activity Levels (PALs).

Audits or Inspections - means any activity conducted by the State Environmental Agency, with respect to a property to determine whether assessment, cleanup, or monitoring actions which the State Environmental Agency has not directly overseen or performed have been conducted. An audit may be conducted for an entire property encompassing multiple study areas or areas of concerns or be specific to a single study area or area of concern. For example an audit may focus on an underground tank cleanup at a larger facility that has many other study areas or areas of concern, or an audit may look at the entire property. **Institutional Controls** - means a Grant of Environmental Restriction or Notice of Activity and Use Limitation recorded registered or filed

in accordance with state laws. Some states may call these Deed restriction or Environmental Covenants. Examples could include: land usage restrictions, groundwater extraction restrictions, soil excavation restrictions, or maintenance of various covers/caps.

Oversight Definitions

Guidance Documents – documents published by your state environmental agency that do not have the force of law or regulation (rules) but provide assistance regarding the application of those laws or regulations (both technical and administrative) to internal staff, external interested parties or both.

Policies – detailed guiding principles for your state environmental agency or a program within your state environmental agency that do not have the force of law or regulation (rules) but guide internal staff regarding the day-to-day operations of the program/agency.

State Regulations (Rules) – language, developed by a state agency and approved by the legislative body of the state (or a committee of the legislative body) which governs the technical and administrative functions of a state agency program.

Legislation – is law which has been promulgated (or "enacted") by a legislature or other governing body. Legislation can have many purposes: to regulate, to authorize, to proscribe, and to provide (funds), to sanction, to grant, to declare or to restrict. (from Wikipedia)

Federal TBAs – Targeted Brownfield Assessments, e.g. Phase Is, Phase IIs, sampling, performed on brownfield sites by contractors overseen by one of the regional offices of U.S. EPA.

104(k) Grants – Grants, awarded by U.S. EPA'S Office of Brownfields and Land Revitalization to states, political subdivisions and Indian tribes typically once a year, to be used for one of the following:

- for a grant recipient to inventory, characterize, assess, and conduct planning and community involvement related to brownfield sites.
- for a grant recipient to carry out cleanup activities at brownfield sites.
- for a grant recipient to make low interest loans to carryout cleanup activities at brownfields properties.

Comfort Letters – Letters, issued by the State environmental agency to an interested party regarding a brownfield site, (e.g. owner, potential purchaser, developer, lessee, lending institution) that provide a level of liability or agency comfort based on the amount of assessment and/or cleanup performed by the interested party or the status of the interested party with respect to brownfield site, (e.g. bona fide prospective purchaser, contiguous property owner, innocent land owner, lender liability, liability determination and potentially responsible party) often in conjunction with the completion of an All Appropriate Inquiry Phase I ESA and/or a Phase II

ESA. The comfort letter category is not intended to capture the number of “Certificates of Completion” for voluntary cleanups or closure letters which are already captured as part of the PALS.

Administrative Mechanisms Definitions

104(k) Support Letters – letters that your State Environmental Agency has written in support of your communities’ grant application to USEPA for brownfield assessment, cleanup and revolving loan funding;

Petroleum Eligibility Letters – letters that your State Environmental Agency has written in support of your communities grant applications to USEPA for brownfield assessment, cleanup and revolving loan funding;

(Federal) Tax Incentives Letters – letters that your State Environmental Agency has written for Persons who have expended funds for remediation and may be eligible to treat that expense as a federal tax deduction. Note: To pursue this opportunity, a statement from the regulatory agency is required confirming that the property being remediated is, in fact, a qualified contaminated site.

(State) Tax Credit – reviews (or letters written) your State Environmental Agency has done to determine whether an applicant qualifies for your State’s tax credit program (for brownfields, redevelopment, etc.)

State Loan or Grant Application – reviews your State Environmental Agency has completed that are associated with brownfield assessment/remediation properties seeking funding assistance from your State’s loan or grant program.

Enforcement Action Mechanisms Definitions

Potential Responsible Party Investigations/Searches – PRP Investigations/Searches seek to establish evidence of liability by identifying parties that are responsible for environmental contamination identified at a site. These investigations/searches allow states to collect evidence by performing title searches, reviewing site documents, conducting interviews, and performing other related research. This category would include the number of PRP Investigations/Searches completed by State Response Programs supported by 128(a) funding.

Notice of Deficiency /Notice of Violations Issued or Referred – Generally, NODs and NOV’s notify the recipient that the State regulatory agency believes the recipient committed one or more

violations of environmental regulations or laws and provides instructions for coming into compliance. NODs/NOVs typically offer an opportunity for the recipient to discuss their actions, including efforts to achieve compliance. NODs/NOVs are usually not a final determination that a violation has occurred. This category would include the number of NODs/NOVs issued and/or referred to by State Response Programs supported by 128(a) funding.

Penalties Issued – Penalties are generally monetary amounts or actions that are paid to the regulating entity by the responsible entity for violations of specific state environmental laws. This category would include the number of penalties issued by State Response Programs or other appropriate entity supported by 128(a) funding.

Legal Documents – Legal documents can include, but are not limited to, access agreements, settlement agreements, voluntary agreements, contracts, consent order and administrative orders. This category would include the number of such legal documents prepared, reviewed and/or finalized by State Response Programs supported by 128(a) funding.

Other Action – This category could include any other action taken by the State Response Programs funded by 128(a) funding to ensure that enforcement actions are undertaken at a site.

Response Program Outcomes

Response Program Outcomes – The purpose of this section is to gather information about outcomes that were a result of the cleanup work. If your state does not collect the requested information please fill in the blank with NC (not collected).

Property Ready for Redevelopment – Provide the number of properties or sites that are ready for redevelopment as a result of the cleanup work. Property should be listed to a level that can accurately account for the commitment of resources invested by the response program, if any were made, and equivalent to that area the agency would close with no further action should a case be opened. If possible, subdivide the number of properties available for reuse into the following categories; Please specify if this includes the entire site as a property (as noted by the legal meets and bounds) or individual parcels as a property. Cleanups are often phased to facilitate redevelopment and a parcel may be cleaned up and redeveloped before the entire site is cleaned up and closed.

Green Space – parks, nature trails, wildlife refuge, etc.

- Residential – residential housing.
- Commercial – retail businesses, offices, places of worship, public services, etc.
- Mixed Use – properties that have multiple uses, such as commercial at ground level with residential in upper floors.
- Industrial – manufacturing, mining, petroleum distribution or storage, etc.
- Unrestricted – the property is available for any use.

If the uses are divided into the sub-categories, please ensure that the cumulative total of the subcategories is equal to the total number of properties ready for redevelopment.

Jobs created or retained after completion of cleanup – Provide the number of permanent, full time jobs that were created or retained in the state by businesses that occupied the property after completion of the cleanup.

Assessment Jobs Leveraged – Provide the number of jobs that were created during the assessment phase of the project. This includes all jobs associated with investigation of the nature and extent of contamination, and design work prior to implementation of the cleanup plan.

Cleanup Jobs Leveraged – Provide the number of jobs that were created to complete the cleanup of the site. This includes engineering and oversight as well as construction jobs that were necessary to implement the cleanup plan.

Dollars Leveraged – The total amount of additional funds (above and beyond the federal funds) that were expended on the site for investigation, cleanup and redevelopment of the property.

Businesses Created or Retained – The number of new businesses that were created and occupied the property after the cleanup was complete, and the number of businesses that remained in the state and occupied the property after cleanup of the site.