

BROWNFIELD RULES OAC 252:221

SUBCHAPTER 1. GENERAL PROVISIONS

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252:221-1-1. Purpose, authority and applicability

- (a) **Purpose.** The purpose of the Brownfield program is to provide for the safe reuse of brownfield properties and provide a mechanism for landowners to resolve or manage their environmental liability to the government.
- (b) **Authority.** The rules in this Chapter implement the Oklahoma Brownfields Voluntary Redevelopment Act, 27A O.S. § 2-15-101 *et seq.*, as amended.
- (c) **Applicability.** Any person who qualifies under 27A O.S. § 2-15-103 may participate in the Brownfield program and receive a Certificate of Completion or a Certificate of No Action Necessary upon successful completion of a Brownfield Plan..

252:221-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“**ASTM**” means the American Society for Testing and Materials.

“**Brownfield**” is defined at 27A O.S. § 2-15-103(2)

“**Brownfield Plan**” means the approved plan that specifies the brownfield remedy for a property.

“**CERCLA**” means the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC 9601 *et seq.*, also known as Superfund.

“**Certificate**” means a Certificate of Completion or a Certificate of No Action Necessary. See further “Certificate of Completion” and “Certificate of No Action Necessary” at 27A O.S. § 2-15-103(3), (4) and (7).

“**Consent Order**” is defined at 27A O.S. § 2-15-103(5)

“**Demonstrated pattern of uncorrected noncompliance**” is defined at 27A O.S. § 2-15-103(6).

“**DEQ**” means the Oklahoma Department of Environmental Quality.

“**NCP**” means the National Oil and Hazardous Substance Pollution Contingency Plan, 40 CFR Part 300.

“**Participant**” is defined at 27A O.S. § 2-15-103(1).

“**Pollution**” is defined at 27A O.S. § 2-1-102.

“**Proposal**” means the document submitted to the DEQ that sets forth the participant’s concept, technical data and intended actions for remediation or no action necessary in accordance with 27A O.S. § 2-15-101 *et seq.* and the rules in this Chapter.

“**Public Forum**” means a gathering for the purpose of discussion of a participant’s proposal and any amendments to that document.

“**Remediation**” is defined at 27A O.S. § 2-15-103(9).

“**Risk-based remediation**” is defined at 27A O.S. § 2-15-103(10).

“**Site characterization**” is defined at 27A O.S. § 2-15-103(11).

252:221-1-3. Methodology

All analytical and sampling methods used to comply with this Chapter shall be approved ASTM or EPA procedures or analytical methods and procedures approved by the DEQ. Any reference to an ASTM or EPA Method refers to the latest published procedure.

252:221-1-4. Terms not defined by Code or rule

Any term not defined in the Oklahoma Environmental Quality Code (27A O.S. § 1-2-101 *et seq*) or Title 252 of the Oklahoma Administrative Code shall be defined by:

- (1) The Dictionary of Geological Terms, latest revised edition, American Geological Institute,
- (2) Its generally accepted scientific meaning, or
- (3) Its standard dictionary meaning.

252:221-1-5. Consideration of other laws

The participant must comply with all applicable state and federal laws and rules.

252:221-1-6. Transitioning from Voluntary Cleanup Program to Brownfield Program

A participant in the Voluntary Cleanup Program may transition to the Brownfield Program by notifying the Brownfield Program in writing and meeting the requirements in 27A O.S. § 15-101 *et seq* and the rules in this Chapter.

252:221-1-7. Superfund and Brownfield

Deleted National Priorities List (NPL, aka Superfund) sites are eligible for Brownfield certification if the program requirements are met.

252:221-1-8. Responsible parties

- (a) Entities responsible for contaminating the property may participate in the Brownfield program.
- (b) Participants may choose to be consistent with the NCP to reserve their rights to cost recovery under CERCLA 107 (42 U.S.C 9607).

SUBCHAPTER 3. THE BROWNFIELD PROGRAM

252:221-3-1. General requirements

252:221-3-2. Process

252:221-3-3. Proposal

252:221-3-4. Approval process

252:221-3-5. Public participation

252:221-3-6. Evaluation of public comments

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252:221-3-8. Remediation plan for preferred option

- 252:221-3-9. Pre-certification inspection and written report
- 252:221-3-10. Further remedial action
- 252:221-3-11. Completion of remedial action.
- 252:221-3-12. Certificates

252:221-3-1. General requirements

All participants shall enter into a consent order with the DEQ, characterize the site, evaluate the risk the site poses to the selected future use, evaluate cleanup alternatives if a risk is present, select a remedial option, prepare a proposal, notify the public of an opportunity to review and comment on the proposal, reimburse DEQ for its reasonable oversight costs and remedy the risk or request a no action determination in accordance with 27A O.S. § 15-101 *et seq.* and the rules in this Chapter.

252:221-3-2. Process

(a) **Eligibility.** The participant must provide sufficient information for the DEQ to determine whether :

- (1) the participant is eligible for liability protection under the state Brownfields law; and
- (2) the site qualifies for the EPA enforcement bar under CERCLA.

(b) **Information.** The participant shall provide the DEQ with information specified in 27A O.S. § 2-15-105 and this Chapter.

(c) **Project tracking database.** The participant shall submit the name of the site, with the latitude and longitude, legal description, and street address as well as contact information for the participant.

252:221-3-3. Proposal

The participant shall develop a Proposal in accordance with 27A O.S. § 2-15-105 and the rules in this Chapter and shall propose either a remedial option or a request for a no action necessary determination. DEQ and the participant shall consider the history of the site and surrounding area in determining the type of sampling and analysis to be conducted and risk-based decision making.

(a) **Site characterization.** In addition to the requirements of 27A O.S. § 2-15-105, the participant shall submit a work plan for site characterization, which includes a plan to control the quality of the data generated for the project commensurate with the complexity of the site, a discussion of existing data, the data gaps, a sampling plan to delineate areas of contamination, and a contaminant and site-specific plan to protect worker and public health and safety during site work.

(b) **Previously acquired data.** The participant may submit previously generated data, if appropriate, with corresponding Quality Assurance/Quality Control documentation. Temporal issues will be considered on a site by site basis. The DEQ may consider this information in determining the appropriateness of further investigation of the site.

- (1) The DEQ may require verification sampling to validate the information submitted.
- (2) If the information submitted does not fully address the requirements of the Brownfield program, the participant shall collect additional data as required by the DEQ.
- (3) The DEQ may require additional analytes, at its discretion.

(c) **Future use.** The participant shall identify the future use of the contaminated property. If the future use of the site is other than “unrestricted use”, the Proposal must include a plan for the

implementation and maintenance of engineering and institutional controls and a plan for long term stewardship.

(d) **Risk evaluation.** On a site specific basis, the participant shall identify and evaluate all potential receptors and exposure pathways. If the proposal claims that an exposure pathway is not complete and therefore no receptor is threatened, specific information must be provided that documents and supports the claim.

(e) **Risk-based cleanup levels.** Using risk evaluation methodology approved by the DEQ, the participant shall:

- (1) compare site contaminant levels to published screening levels approved by the DEQ;
- (2) calculate a default risk-based cleanup level in accordance with DEQ guidance; or
- (3) conduct a risk assessment of the contaminated property to produce site-specific risk-based cleanup levels. DEQ must approve the model and input parameters used in any risk assessment.

(f) **Remedial option evaluation.** The participant shall identify alternatives for remediation and shall submit narrative information which discusses each alternative's risk-based cleanup levels, protectiveness, economic feasibility, technical feasibility, and reliability of each remedial alternative considered. Additionally, the participant shall include a discussion of engineering and institutional controls needed for each option to maintain the remedy and control the use of the property in the future. Examples of specific institutional controls must be included in the Proposal for evaluation unless the future use is "unrestricted use".

(g) **Preferred option.** The participant shall identify its preferred option.

(h) **No Action Determination.** A request for a no action determination does not require a remedial option evaluation as described in subsection (f) above.

(h) **Submittal.** The Proposal must be written in plain language, with technical terms defined. The participant shall submit two paper copies and one electronic copy of the Proposal to the DEQ for review and comment.

252:221-3-4. Approval process

(a) The DEQ will review and comment on participant's Proposal and may ask for additional information. All additional submittals made by participant shall be in duplicate with one electronic copy. The document(s) will be added to the original Proposal as amendments.

(b) When the DEQ and the participant are satisfied that the Proposal will be protective of human health and the environment and that the Proposal adequately addresses long term stewardship, the Proposal (as amended) shall be made available for public review as specified in the following section.

252:221-3-5. Public participation

(a) **Public review.** The participant must make the Proposal and its amendments available to the public for review for 20 working days. The Proposal must be placed at a convenient location local to the site that provides easy access to the public to review.

(b) **Public notice.** The participant must place a public notice in a newspaper of general circulation local to the site announcing the availability of the Proposal for public review and comment. The notice must include, at a minimum:

- (1) the name(s) and contact information of the participant(s);
- (2) the site name;
- (3) the location (street address and legal description) of the site;

- (4) the proposed future use of the property;
- (5) the proposed remedy;
- (6) the location where the Proposal may be reviewed;
- (7) the beginning and ending dates for the 20 working day review and comment period;
- (8) the opportunity to request a public forum on the Proposal and its amendments within the 20 working day review period; and
- (9) the DEQ contact person and mailing address where comments will be received.

(c) **Public forum.** If the DEQ receives a timely request for a public forum on the Proposal and its amendments and determines that there is a significant degree of public interest in the Proposal, the DEQ shall expeditiously schedule and hold a public forum. Notice of the forum shall be given to the public at least 10 working days prior to the public forum in the same manner as in subsection (b) above. The public forum shall be held at a location convenient to and near the Brownfield site. The participant must attend the meeting or send a designated representative.

252:221-3-6. Evaluation of public comments

The DEQ will prepare a responsiveness summary for all comments received. After consideration of the comments, the DEQ may require the participant to revise the Proposal in a manner that satisfies the public's concerns or may accept the Proposal.

252:221-3-7. Request for a No Action Necessary determination

In accordance with 27A O.S. § 2-15-106 (D), the participant may select to pursue a no action necessary determination as the preferred option. DEQ approval will be based on information and procedure required in 27A O.S. § 2-15-101 *et seq* and the rules in this Chapter demonstrating that level of contamination at the site, if any, does not pose an unreasonable risk to human health and safety or to the environment for the prescribed future use.

252:221-3-8. Remediation plan for preferred option

(a) **Statutory requirements.** The participant shall submit information required by 27A O.S. § 2-15-101 *et seq* and the rules in this Chapter in the remediation plan for the preferred option.

(b) **Proposal.** The remediation plan shall incorporate the Proposal and shall provide the technical information necessary for implementation of the Proposal.

(c) **Additional requirements.** The participant shall also identify the following in the remediation plan:

1. The cleanup levels and design requirements to obtain them;
2. All applicable state and federal laws, rules, standards, limitations, criteria and requirements;
3. Methods to verify how risk-based cleanup levels will be achieved;
4. Project and Construction Management plan;
5. Remediation schedule;
6. Future monitoring and maintenance requirements; and
7. A specific plan for long-term stewardship if the future use is not "unrestricted use". If active long-term maintenance of the remedy is required, the plan must include information on how funding for the maintenance will be provided.

(d) **Interim remedial action.** If an environmental problem is discovered before the remediation plan is finalized, an interim measure may be proposed for DEQ approval.

(e) **DEQ approval required.** Other than interim remedial action, the participant may not begin remediation until DEQ approves the remediation plan.

252:221-3-9. Pre-certification inspection and written report

Within thirty (30) calendar days after participant concludes that the remedial action has been fully performed, participant shall notify DEQ and shall schedule and conduct a pre-certification inspection to be attended by DEQ. The pre-certification inspection shall be followed by a written report submitted within thirty (30) calendar days of the inspection by participant's project manager, certifying that the remedial action, including confirmation sample data, has been completed in full satisfaction of the requirements of the Consent Order.

252:221-3-10. Further remedial action

If, after completion of the pre-certification inspection and receipt and review of the written report, DEQ determines that the remedial action or any portion thereof has not been completed in accordance with this Chapter or the Consent Order, DEQ shall notify Participant in writing of the activities that must be undertaken to complete the remedial action and shall set forth in the notice a schedule for performance of such activities. Respondents shall perform all activities described in the notice in accordance with the specifications and schedules established therein.

252:221-3-11. Completion of remedial action.

Once DEQ concludes that the remedial action has been fully performed in accordance with 27A O.S. § 2-15-101 *et seq*, this Chapter and the Consent Order, DEQ will notify participants that the remedial action is complete.

252:221-3-12. Certificates

(a) **Certificate of No Action Necessary.** Upon determination by the DEQ that no action is necessary, the participant shall receive a Certificate of No Action Necessary.

(b) **Certificate of Completion.** Upon final inspection and approval of work by the DEQ, the participant shall receive a Certificate of Completion.

(c) **Certificates.** Language in the Certificates shall comply with 27A O.S. § 2-7-123 and § 2-15-101 *et seq*.

(d) **Filing.** The participant shall file the Certificate in the county land records and submit a file-stamped copy to the DEQ in accordance with 27A O.S. § 2-7-123 and § 2-15-107.

SUBCHAPTER 5. VERIFICATION OF BROWNFIELDS PROJECTS

252:221-5-1. Applicability

252:221-5-2. Verification of projects

252:221-5-1. Applicability

This Subchapter applies to Brownfields projects eligible for funds from the Wastewater Facility Construction Revolving Loan Account pursuant to 82 O.S. §1084.1 *et seq*. and other state or federal funding sources.

252:221-5-2. Verification of projects

The DEQ shall verify eligibility of Brownfields projects to the Oklahoma Water Resources Board or other appropriate state or federal funding entities. Additionally, the DEQ shall cooperate with appropriate funding entities in identifying water quality benefits under the federal Clean Water Act by providing the following information upon request of the funding entity:

- (1) verification of eligibility as a Brownfields project;
- (2) verification that runoff from the project potentially impacts water quality; and
- (3) documentation of potential water quality benefits.

SUBCHAPTER 7. REVOLVING LOAN FUNDS (RLF)

252:221-7-1. Purpose, authority and applicability

252:221-7-2. Definitions

252:221-7-3. Borrower eligibility

252:221-7-4. Eligible uses

252:221-7-5. Ineligible fund uses

252:221-7-6. Environmental requirements

252:221-7-7. Project selection criteria

252:221-7-8. Protocol for demonstrating eligibility

252:221-7-9. Public Involvement

252:221-7-10. Final Decision Document

252:221-7-11. Special terms and conditions

252:221-7-12. Loan discount

252:221-7-13. Insurance

252:221-7-1. Purpose, authority and applicability

(a) **Purpose.** The purpose of this Subchapter is to implement Executive Order 98-37, mandating state agencies to establish criteria for local project funding contracts.

(b) **Authority.** This subchapter is adopted pursuant to 27A O.S. § 2-2-101 *et seq.* and § 2-15-101 *et seq.*, 75 O.S. § 302 and Executive Order 98-37.

(c) **Applicability.** The rules in this Subchapter apply to any private entity, political subdivision or unit of local government, including municipal and county governments and school districts, and federally recognized Indian tribes seeking to use Revolving Loan Funds (RLF) for - brownfield cleanup activities.

(d) **Oklahoma Department of Commerce.** The Oklahoma Department of Commerce (ODOC) is the RLF Fund Manager responsible for ensuring that the RLF applicants meet all financial requirements. Applicants are on notice that the ODOC may have specific rules governing loan applications and eligibility requirements.

(e) **Federal "cross-cutting" requirements.** "Cross-cutting requirements" are those federal requirements in addition to CERCLA and associated administrative authorities which are applicable to the RLF by operation of federal statutes, President's Executive Orders and federal regulations. These cross-cutting federal authorities apply by their own terms to projects and activities receiving federal financial assistance regardless of whether the statute authorizing the assistance mentions them specifically. RLF cross-cutters include but are not limited to social and economic policy authorities such as equal employment opportunities (President's Executive Order 11246) and government wide debarment and suspension rules (President's Executive

Order 12549), the Demonstration Cities and Metropolitan Development Act, procurement prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, Anti-lobbying provisions of 40 CFR Part 30, Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, the Contract Work Hours and Safety Standards Act, Anti-kickback Acts, the Women and Minority Business Enterprise Act, Section 13 of the Federal Water Pollution Act amendments, the Drugfree Workplace Act of 1988, Section 504 of the Rehabilitation Act of 1973 and Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988 and the Davis-Bacon Act.

252:221-7-2. Definitions

In addition to the definitions found in OAC 252:221-1-3, the following words or terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Administrative Record" means a record available to the public, containing all relevant site information and documents that form the basis for the selection of a cleanup.

"Brownfield", as used in this subchapter, is defined in 42 U.S.C. § 9601(39) and has a different meaning than the term as used in Subchapters 1, 3 and 5 of this Chapter.

"RLF response" means planned cleanup actions.

"Borrower" means a public or private entity that uses RLF funds for cleanup and cleanup-related activities and agrees to the terms of a loan agreement between itself and the DEQ and ODOC.

"Eligible response site" means properties that do not meet the definition of a Brownfield but may be eligible if EPA makes a property-specific determination that the site is eligible for funding.

"Governmental borrower" means states, tribes and political subdivisions as defined at 40 CFR 35.6015.

"Loan discount" means a decision made by the DEQ and ODOC under OAC 252:221, to allow a borrower to repay less than the full amount of a loan, subject to certain restrictions.

"Nonprofit borrower" means "nonprofit organization" as defined in accordance with the Federal Financial Assistance Management Improvement Act of 1999, 31 U.S.C. 6101.

"Private borrower" means a for profit company or private individual not representing a governmental entity or non-profit organization.

"Subgrant" means a portion of the RLF award available as grants to eligible entities, at the DEQ's discretion.

252:221-7-3. Borrower eligibility

(a) An owner/operator (o/o) who was the generator or transporter of contamination at the site is not eligible for a RLF loan/grant for that same site.

(b) An owner who does not qualify as an innocent landowner, contiguous property owner, or bona fide prospective purchaser is not eligible for an RLF loan.

(c) A government entity may borrow RLF funds to clean up property acquired through eminent domain.

252:221-7-4. Eligible uses

The RLF funds may be used to clean up hazardous substances, pollutants, contaminants, petroleum, mine-scarred land and controlled substances as defined in the Controlled Substances Act, 21 U.S.C. § 802.

252:221-7-5. Ineligible fund uses

(a) **Ineligible activities.** RLF funds shall not be used for any of the following activities, including but not limited to:

- (1) Pre-cleanup environmental response activities, such as site assessment, identification, and characterization;
- (2) Monitoring and data collection necessary to apply for, or comply with, environmental permits under other state and Federal laws, unless such a permit is required as a component of the cleanup action;
- (3) Development activities that are not cleanup actions (e.g., construction of a new facility or marketing of property);
- (4) To support job training; or
- (5) Indirect costs.

(b) **Ineligible sites.** RLF funds shall not be used at any sites:

- (1) Listed, or proposed for listing, on the National Priorities List; or
- (2) That do not meet the definition of an eligible response site.

252:221-7-6. Environmental requirements

(a) RLF funds shall only be used to conduct cleanup actions at brownfields sites, as brownfield is defined in this subchapter.

(b) All cleanup actions funded by the RLF must meet the following:

- (1) the requirements of a state approved program;
- (2) EPA Brownfield RLF Programmatic Requirements as specified in EPA's
- (3) relevant and appropriate provisions of CERCLA and the NCP.

252:221-7-7. Project selection criteria

(a) **Funding available.** Loans will be made to eligible projects as funding allows.

(b) **Priority projects.** Priority will be given to projects that

- (1) remove environmental risks as opposed to managing them long term;
- (2) use deconstruction techniques to remove structures as opposed to demolition;
- (3) use sustainable material management techniques for demolition/deconstruction
- (4) redevelop property using LEED standards or promote energy efficiency;
- (5) promote reuse by a green industry;
- (6) use sustainable landscaping or sustainable redevelopment techniques;
- (7) create green jobs;
- (8) facilitate the creation of, preservation of or addition to a park, a greenspace;
- (9) meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community; or
- (10) facilitate the use or reuse of existing infrastructure.

(b) **Compliance with state and federal laws and rules.** The borrower/grantee must comply with the the rules in this subchapter, the agency of jurisdiction's rules, and relevant and appropriate provisions of CERCLA and the NCP.

(c) **Contribution to local community revitalization.** The borrower/grantee shall submit documentation to support its position that the cleanup of a particular site will significantly contribute to local community revitalization.

(d) **Environmental compliance history.** A borrower/grantee must submit information regarding its overall environmental compliance history. The DEQ will strongly consider this history in its analysis of the borrower/grantee as a cleanup and business risk. Each borrower/grantee must certify that it is not currently, nor has it been, subject to any penalties resulting from environmental non-compliance at the site subject to the loan. An entity that has been suspended, debarred or otherwise declared ineligible, as those terms are defined in 40 CFR Part 32, cannot be a borrower/grantee.

252:221-7-8. Protocol for demonstrating eligibility

The borrower/grantee shall provide the following documentation to the DEQ:

- (1) Description of project to be funded;
- (2) How loan or grant monies will be used;
- (3) Explanation of how the project, if selected, would be consistent with RLF program objectives;
- (4) Environmental compliance history; and
- (5) Documentation showing that the potential borrower/grantee is an innocent landowner, contiguous property owner, bona fide prospective purchaser or other proof of non-responsibility for the environmental contaminants that are the subject of the cleanup; and
- (6) If the borrower/grantee is selected for a loan/grant, he/she must submit the
 - (i) Analysis of Brownfields Cleanup Alternatives (ABCA);
 - (ii) Community Involvement Plan; and
 - (iii) Quality Assurance Project Plan (QAPP).

252:221-7-9. Public Involvement

(a) **Community Involvement Plan** The Borrower/grantee must involve the public in the process prior to site cleanup. This public process involvement must be documented in the Community Involvement Plan.

(b) **Administrative record.** The Borrower/grantee must establish an administrative record for this site and must make the administrative record available to the public for review for 30 calendar days. The administrative record must be placed at a convenient location that provides easy access to the public to review.

(c) **Public notice.** The Borrower/grantee must place a public notice in a newspaper of general circulation local to the site announcing the availability of the administrative record for public review and comment. The notice must include, at a minimum:

- (1) the name(s) and contact information of the participant(s);
- (2) the site name;
- (3) the location (street address and/or legal description) of the site;
- (4) the proposed future use of the property;
- (5) the proposed remedy;

- (6) the location where the administrative record may be reviewed;
- (7) the beginning and ending dates for the 30 calendar day review period;
- (8) the DEQ contact person and mailing address where public comments will be received.

(d) **Evaluation of public comments.** The DEQ will consider all relevant comments and prepare a responsiveness summary.

252:221-7-10. Final Decision Document

The DEQ will issue a Final Decision Document prior to a loan being made.

252:221-7-11. Special terms and conditions

The following terms and conditions are incorporated by reference into each Borrower/grantee's loan agreement:

- (1) Borrower/grantee shall use funds only for eligible activities.
- (2) Borrower/grantees shall document all funds used.
- (3) Borrower/grantee shall maintain documentation for a minimum of three (3) years after the completion of the cleanup activity supported by the loan or for the length of the loan, whichever is longer. Borrower/grantee shall obtain written approval from the DEQ prior to disposing of records.
- (4) Borrower/grantee shall conduct RLF response activities in accordance with this Subchapter, relevant and appropriate provisions of CERCLA and EPA's Revolving Loan Fund Grant Programs Administrative Manual, December 2008, as updated.
- (6) Borrower/grantees shall modify response activities as required by the DEQ.
- (7) Borrower/grantees shall comply with CERCLA § 104(g) [42 USC § 9604(g)] by requiring that laborers and mechanics employed by the Borrower/grantee or its contractors or subcontractors in the performance of construction, alteration, or repair work are paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the U.S. Department of Labor in accordance with the Davis Bacon Act. Borrower/grantees shall submit copies of all Davis Bacon forms to the DEQ.
- (8) Borrower/grantees must comply with the Uniform Relocation Act and other applicable federal "cross cutting" requirements.
- (9) Borrower/grantees shall use funds promptly for costs incurred in connection with the cleanup.
- (10) All distribution of funds will be as reimbursement for costs incurred.

252:221-7-12. Loan discount

DEQ may at its discretion discount a portion of a loan. DEQ will consider the Borrower's ability to pay, the impact that the cleanup and redevelopment will have on the local community, and sustainable practices in its decision.

252:221-7-13. Insurance

(a) Borrower/grantees may purchase insurance, including environmental insurance, if the expense is necessary to carry out cleanup activities and associated cleanup activities are carried out in accordance with the terms and conditions of DEQ's loan/grant.

