

Model Concurrence Request Letter to the Governor/State

(Regions may tailor letter)

The Honorable _____
Governor of _____
or Head of Environmental Agency

Dear Governor /Agency Head____:

The United States Environmental Protection Agency (EPA) is considering proposing the ____ site in _____ on the Superfund National Priorities List (NPL), pursuant to its authority under Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, 42 U.S.C. Section 9605. The NPL contains a list of priority sites with releases of hazardous substances, pollutants or contaminants that require evaluation for possible remediation. It is EPA's policy to determine the state's position on sites that EPA is considering placing on the NPL. With this letter, EPA is seeking the concurrence of the [State or Commonwealth of ____] on adding the ____ site to the NPL.

[Provide description of site and concerns that make listing appropriate: possible topics to include are human health and environmental risks; levels of contaminants and if violating any benchmarks or standards; previous work EPA and/or state have performed at the site; why there is a need for listing; what role private parties and federal entities are likely to play in future site cleanup and why previous cleanups have not addressed the risks.]

EPA is committed to working cooperatively with the state and local community throughout the listing and subsequent Superfund cleanup process, and to ensuring that EPA's actions are conducted in an open and transparent manner. For a fund-financed remedial action prior to initiation of the remedial action, EPA and the state will collaborate in the development of a superfund state contract to provide the state assurances required by CERCLA, including, for example, the state's statutory cost share for the remedial action and assumption of operation and maintenance responsibilities. For federal facilities placed on the NPL, the process is slightly different. Where appropriate, a state may enter into a three-party enforceable agreement with the responsible federal entity and EPA to establish respective roles and responsibilities.

EPA is requesting a written response to this letter from your Governor's office or from the [State Environmental Agency] by [date]. EPA has set this date to allow adequate time to meet the proposed rule schedule. The response letter should indicate whether the state supports placement of the site on the NPL. If the state does not support listing, the state should describe the alternative approach to placement on the NPL that will ensure the identified priority site and associated release(s) will be addressed. [Optional: If we do not receive a response by the above date, or a request for further dialogue, we may need to make a listing decision without any formal state input.] EPA will be sharing information with the community regarding the state's position, including posting the information on the internet. EPA will also invite the [State Environmental Agency] to participate in any community meetings during the listing process.

We will continue to work closely with and seek input from the state as the listing process proceeds. We appreciate your consideration of this matter. If additional information is needed or you would like to meet to discuss this matter further, please call me at ____, or your staff may wish to contact ____, Superfund Division Director, at _____. [Note: regions must include this paragraph to ensure compliance with E. O. 13563.]

Sincerely,

Regional Administrator

cc:

Commissioner, [State Environmental Agency]

Director, [Superfund Division]

James Woolford, Director
Office of Superfund Remediation and Technology Innovation