



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

December 7, 2022

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

MEMORANDUM

SUBJECT: Delegation of Authority 14-2, Responses

FROM: Barry N. Breen
Acting Assistant Administrator

TO: Regional Administrators

14-2. Responses (1200 TN 531)

1. AUTHORITY.

To respond to any release or threatened release of a hazardous substance, pollutant, or contaminant, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), section 104 when the estimated cost of the response actions memorialized in the decision document is less than \$100 million. The term “response” is defined under CERCLA section 101(25) and includes both removal and remedial actions. This delegation of authority covers CERCLA authorities related to carrying out response actions by EPA, including response selection and implementation.

2. TO WHOM DELEGATED.

The Regional Administrators.

3. LIMITATIONS.

- a) Regional Administrators will select a response action unless consultation prior to selection is requested, in writing, by the Office of Land and Emergency Management Assistant Administrator (AA/OLEM).
- b) Regional Administrators may exercise these authorities only at sites located within their respective regions, unless there is a memorandum of agreement that authorizes cross-boundary response. Regional Administrators must consult with the AA/OLEM prior to signing a cross-boundary Memorandum of Agreement, unless waived by memorandum.
- c) The Regional Administrators must obtain advance concurrence from the AA/OLEM prior to initiating a removal action at sites not proposed to or final on the National Priorities List under either of the following circumstances:
 1. the proposed action is on the List of Nationally Significant or Precedent-Setting Removal Action categories; or
 2. where the Agency expects to invoke the consistency waiver from the \$2 million limit and 12-month limits for removal actions.

- d) The Regional Administrators must obtain advance concurrence from the AA/OLEM to invoke the emergency waiver for removal actions costing more than \$6 million.
- e) The limitations identified in paragraphs (c)-(d) may be waived by memorandum signed by the AA/OLEM.

4. REDELEGATION AUTHORITY.

- a) The Regional Administrators may redelegate these authorities to the division director level and no further.
- b) The Regional Administrators may redelegate to designated on-scene coordinators, and no further, the authority to determine the need for emergency removals and to approve and initiate removal actions costing up to \$250,000 where site conditions constitute an emergency.
- c) An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command, including deputies, to the official to whom it has been specifically redelegated.

5. ADDITIONAL REFERENCES.

- a) CERCLA, Sections 101(23), 101(24), 105, 113, 116, 117, 118, 120, 121, and 126(b).
- b) Executive Order 12580, as amended.
- c) 40 CFR Part 300, National Oil and Hazardous Substances Pollution Contingency Plan.
- d) 40 CFR 35, Subpart O, "Cooperative Agreements and Superfund State Contracts for Superfund Response Actions."
- e) EPA Delegation 14-1, Superfund State Contracts and Cooperative Agreements.
- f) EPA Delegation 14-17, National Priorities List Determinations.
- g) EPA Delegation 14-22, Administrative Record and Public Participation.
- h) EPA Delegation 14-30, Acquisition of Real Property.
- i) Limited Contracting Officer Warrant Authority issued to designated OSCs.
- j) All other directives, policy and guidance issued by OLEM and the Office of Enforcement and Compliance Assurance pertaining to response and consultation requirements.