UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 4 1990

OSWER Directive No. 9203.0-06
OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Superfund Responsiveness Summaries
(Superfund Management Review: Recommendation #43E)

FROM: Henry L. Longest II, Director
Office of Emergency and Remedial Response

Bruce M. Diamond, Director
Office of Waste Programs Enforcement

TO: Director, Waste Management Division
Regions I, IV, V, VII, VIII
Director, Emergency and Remedial Response Division
Region II
Director, Hazardous Waste Management Division
Regions III, VI, IX
Director, Hazardous Waste Division
Region X

PURPOSE:

To improve responsiveness summaries so that they are more responsive to local communities' concerns.

BACKGROUND:

The Administrator's Superfund Management Review (the "90-Day Study") raised important questions about the structure and use of responsiveness summaries in the selection of remedy process. As the "90-Day Study" concluded:

> "Whether EPA can do what citizens ask or not, we should always provide them a clear explanation of the basis for our decision. A responsiveness summary should reflect a genuine attempt to come to grips with citizens' questions and concerns; it should not appear to be an advocacy brief piling up evidence for why EPA's original decision was the only possible one."

The responsiveness summary serves two vital functions: first, it provides the decision-maker with information about the views of the public, government agencies, the support agency and potentially

OSWER Directive No. 9230.0-06

responsible parties (PRPs) regarding the proposed remedial action and other alternatives. Second, it documents how comments have been considered during the decision-making process and provides answers to all significant comments.

As the "90-Day Study" notes, the public needs "clear, candid" responses. They need simple, accessible information that may not be provided by summaries aimed at PRPs. Many citizens do not see the responsiveness summary as a valid vehicle through which their concerns can be addressed. This perception by citizens frustrates them and makes the Agency's job of meaningful response to citizens much more difficult.

POLICY:

The new format described below addresses these problems. It is intended to provide responsiveness summaries that can deal thoroughly with complicated legal and technical issues while maintaining true responsiveness to local communities. This will be accomplished by dividing the document into two parts. It will satisfy the needs not only of the public, but also of the PRPs.

1) Responsiveness summaries should be divided into two parts.

2) Part I will be a summary of commentors' major issues and concerns, and will expressly acknowledge and respond to those raised by the local community. "Local community" here means those individuals who have identified themselves as living in the immediate vicinity of a Superfund site and are threatened from a health or environmental standpoint. These may include local homeowners, businesses, the municipality, and, not infrequently, PRPs. Part I should be presented by subject, and should be written in a clear, concise, easy to understand manner.

3) Part II will be a comprehensive response to all significant comments. It will be comprised mostly of the specific legal and technical questions and, if necessary, will elaborate with technical detail on answers covered in Part I. This part shall be of such length and terminology as deemed necessary by the authors. Like Part I, it will be divided according to subjects.

4) Part I's importance is in the simplicity and accessibility of both its language and presentation. Because Parts I and II will inevitably deal with similar or overlapping issues, the responsiveness summary should state clearly that any points of conflict or ambiguity between the two parts shall be resolved in favor of the detailed technical and legal presentation in Part II.

OSWER Directive No. 9230.0-06

5) Ordinarily, the Community Relations Coordinator and the Remedial Project Manager should be responsible for preparing the responsiveness summary, with Office of Regional Counsel acting in an advisory capacity.

6) Where possible, a response to a "yes or no" question should begin with a "yes" or "no," before launching into a detailed explanation. If the question cannot be answered with a "yes" or "no," then a statement to that effect should be made at the beginning of that answer.

This approach will often lengthen the overall responsiveness summary. However, the trade-off will be that local communities will receive a much more "responsive" document, where the public can easily retrieve and understand answers without compromising the other statutory goals of the responsiveness summary.

Additional information on preparing a responsiveness summary may be found in Community Relations in Superfund: A Handbook, Interim Version, OSWER Directive 9230.0-3B, and in Community Relations During Enforcement Activities and Development of the Administrative Record, OSWER Directive 9836.0-1A. If you have any questions about responsiveness summaries, or wish to make comments please contact Jeff Langholz of the Community Relations staff at FTS 382-2460.

NOTICE: The policies set out in this memorandum are intended solely for the guidance of Government personnel. They are not intended, nor can they be relied upon, to create any rights enforceable by any party in litigation with the United States. EPA officials may decide to follow the guidance provided in this memorandum, or to act at variance with the guidance, based upon an analysis of specific site circumstances. The Agency also reserves the right to change this guidance at any time without public notice.

cc: Community Relations Coordinators, Regions I - X
Regional Counsel, Regions I - X