



Consolidated Guide to Consultation Procedures for Superfund Response Decisions

Office of Emergency and Remedial Response

Quick Reference Fact Sheet

The goal of this fact sheet is to describe management review procedures employed by EPA to ensure that national remedy selection policies and procedures are being implemented in a reasonable and appropriately consistent manner. EPA believes that consistent application of national policy and guidance is an important means by which we ensure the reasonableness, predictability, and cost-effectiveness of Superfund decisions. This document has been developed as a result of the National Consistency directive (OSWER Directive 9200.0-21) and the Remedy Selection "Rules of Thumb" Superfund Reform efforts announced by Administrator Carol Browner in October 1995.

This fact sheet provides a consolidated guide to EPA Headquarters and Regional consultation procedures for response decisions management. This document was developed to clarify and consolidate the various consultation procedures that have been established for both remedial and removal response selection decision making through various OSWER Directives, memoranda, and recommendations of national policy workgroups.

NOTE: This fact sheet only highlights the review and/or consultation procedures that exist between EPA headquarters and EPA Regional offices for Superfund response selection decision-making. Every response decision goes through a rigorous technical and management review process within each Regional EPA office as well. The specific management review procedures are unique to each Region, and have evolved over time to reflect the best technical and program management expertise as well as the different organizational structures in each office.

FOCUS AREA REVIEW

In May 1996, the Office of Emergency and Remedial Response (OERR) issued a directive describing the goal of promoting "appropriately consistent CERCLA program implementation . . . and effective communication between Headquarters and the Regions" with a focus on four technical and policy areas. (*Focus Areas for Headquarters OERR Support for Regional Decision Making*, OSWER Directive 9200.1-17, May 22, 1996).

The four focus areas include: risk management and cost-effectiveness decision documentation; ground water policy; lead (Pb) policy; and presumptive remedies.

The consultation procedures outlined in the memorandum involve the review of draft proposed plans by staff in OERR's Accelerated Response Centers. In some circumstances, OERR may request the review of draft decision documents such as Records of Decision (RODs), ROD amendments, Explanations of Significant Differences (ESDs), or Action Memoranda for non-time-critical removal

actions. Consultations are still required for non-time-critical removal actions costing over \$5 million (see *SACM Regional Decision Teams and Early Action and Long-Term Action Under SACM*, OSWER Directive 9203.1-05I, December 1992). Headquarters staff will flag any inconsistencies with respect to focus area policies and will work with Regional staff, on an informal basis, to resolve these issues in a timely manner. Issues of a national precedent-setting nature may be discussed with management as well.

At the same time, this memorandum encourages Regional staff to look upon Headquarters staff as a resource that can provide assistance in working through issues as early as possible during the development of site response strategies and draft proposed plans. The specific elements within each focus area are summarized in Table 1 and discussed in more detail in the May 1996 Focus Area memorandum.

HEADQUARTERS APPROVAL/CONCURRENCE ON REMOVAL ACTIONS

The Superfund statute established certain limitations on the use of removal actions. Some of the approval authority for exceeding these statutory limitations has been delegated to EPA Regional offices, and some approval authority remains at Headquarters. Table 2 lists the specific elements of the Headquarters approval/concurrence consultation process for removal actions.

CROSS-REGIONAL RESPONSE DECISIONS MANAGEMENT GROUPS

Cross-regional response decisions management groups have also been formed to share critical site information and improve remedy selection decision making. (See Table 3). Sharing draft proposed plans, decision documents, or other site-specific response strategies with these review groups as early as possible in the remedy selection process, will help facilitate a quick and efficient review.

The National Remedy Review Board was formed to promote cost-effectiveness and national consistency in remedy selection at Superfund sites. The Board is staffed with technical experts and senior managers from each EPA Region and several EPA Headquarters offices and focuses its reviews on high cost remedies. (*National Remedy Review Board Progress Report: Fiscal Year 1996*, OSWER Directive 9220.0-24,

January 1997; and *National Remedy Review Board Review Criteria for Federal Facility Superfund Sites*, OSWER Directive 9220.0-25, draft).

Lead is one of the most frequently encountered chemicals at Superfund sites. Lead cleanups are also some of the most costly cleanups. As a result, a Lead Sites Management Workgroup has been formed by the Superfund Waste Management Division Directors in order to have management level involvement in key lead site decisions across the nation. Criteria will be developed in the near future and will provide proposed action levels and/or risk management alternatives that trigger a review by this group. (*Per direction of Superfund Waste Management Division Directors' Lead Policy Forum on February 6, 1997*.)

CROSS-REGIONAL TECHNICAL REVIEW WORKGROUPS

Finally, cross-regional technical review workgroups have also been formed to focus on technical issues underlying risk assessment and response management issues. (See Table 4).

In order to support site-specific lead risk assessments and assist in the development of national lead policy for Superfund, the Technical Review Workgroup for lead was established. This group of scientists and technical experts is familiar with the development and refinement of the Integrated Exposure Uptake Biokinetic Model for Lead in Children (IEUBK) and provides advice on questions relating to site-specific lead risk assessments. OERR has asked Regional offices to identify any application of the IEUBK model that is expected to be challenged or will set a precedent in IEUBK model application so that the Technical Review Workgroup can be informed of the issues and provided an opportunity to comment on the approach undertaken. (*Revised Interim Soil Lead Guidance for CERCLA Sites and RCRA Corrective Action Facilities*, OSWER Directive 9355.4-12, July 14, 1994; and *Administrative Reforms for Lead Risk Assessment*, OSWER Directive 9200.4-20, April 17, 1996).

For sites where EPA is developing dioxin soil cleanup levels, OERR asks the Regions to consult with Headquarters and the Superfund Dioxin Workgroup as early as possible in the remedy selection process. This consultation process is needed to ensure a consistent transition in implementing the results of the Agency Dioxin Reassessment. (*Headquarters Consultation for Dioxin Sites*, OSWER Directive 9200.4-19, December 13, 1996).

POINTS OF CONTACT

OERR Focus Area Reviews: Contact staff in individual OERR Regional Accelerated Response Centers.

Removal Program Concurrences: Contact staff in individual OERR Regional Accelerated Response Centers.

National Remedy Review Board: Regional Remedy Review Board members or Bruce Means (OERR) at 703-603-8815.

Lead Sites Management Workgroup: Nick Ceto (Region 10) at 206-553-1816 or Shahid Mahmud (OERR) at 703-603-8789.

Lead Technical Review Workgroup: Pat Van Leeuwen (Region 5) at 312-886-4904, Paul White (Office of Research and Development) at 202-260-2589, or Larry Zaragoza (OERR) at 703-603-8867.

Dioxin Review Workgroup: Marlene Berg (OERR) at 703-603-8701, Elmer Akin (Region 4) at 404-562-8634, or Dwain Winters (Office of Prevention, Pesticides, and Toxic Substances) at 202-260-8558.

**EPA employees can obtain copies of OSWER directives cited in this guide by calling the Superfund Document Center at (703) 603-9232 or sending an e-mail to:
"superfund.documentcenter@epamail.epa.gov"**

	1	2	3
Levels of Management Review	R E G I O N	O E R R	A A
1. Regional Staff (S) and Management (M) (Region)			
2. Office of Emergency and Remedial Response Staff (S) or Management (M) (OERR)			
3. Assistant Administrator for the Office of Solid Waste and Emergency Response (AA)			
Submit draft proposed plans ¹ to OERR Regional Center Staff for reviews in the following focus areas: (<i>Focus Areas for Headquarters OERR Support for Regional Decision Making</i> , OSWER Directive 9200.1-17, May 22, 1996)			
1) Risk management and cost-effectiveness decision documentation	S	S	
• Clear presentation of risks that justify action, using reasonable land use and exposure assumptions			
• Description of how response action will address risks			
• Description of other benefits of response action			
• Determination that effectiveness of response justifies cost			
2) Ground water policy	S	S	
• Consistent implementation of presumptive response strategy for contaminated ground water			
• Consistent implementation of technical impracticability guidance (<i>Consistent Implementation of the FY1993 Guidance on Technical Impracticability of Ground Water Restoration at Superfund Sites</i> , OSWER Directive 9200.4-14, January 1995)			
3) Lead policy	S	S	
• Consistent implementation of OSWER lead policy and coordination with cross-regional technical and management review groups			
4) Presumptive remedies	S	S	
• Appropriate use of presumptive remedies whenever possible			

¹ Consultations are still required for non-time-critical removal actions costing over \$5 million (see *SACM Regional Decision Teams and Early Action and Long-Term Action Under SACM*, OSWER Directive 9203.1-05I, December 1992).

TABLE 2
HQ APPROVAL/CONCURRENCE ON REMOVAL ACTIONS

	1	2	3
Levels of Management Review	R E G I O N	O E R R O N	A A A
1. Regional Staff (S) and Management (M) (Region)			
2. Office of Emergency and Remedial Response Staff (S) and Management (M) (OERR)			
3. Assistant Administrator for the Office of Solid Waste and Emergency Response (AA)			
Removal Program Approval/Concurrence			
The Superfund statute established certain limitations on the use of removal actions. Some of the approval authority for exceeding these statutory limitations has been delegated to EPA Regional offices, and some approval authority remains at Headquarters.			
<u>\$2 million statutory limit exemptions:</u>		M	
● Emergency Exemption requests exceeding \$6 million		M	M
● Consistency Exemption requests for non-NPL sites			
● All other exemptions	M		
<u>12-month statutory limit exemptions:</u>	M		
● All exemptions to the 12-month statutory limit			
In addition, the process for obtaining Headquarters concurrence on nationally significant fund-lead removal actions is described in <i>Guidance on Non-NPL Removal Actions Involving Nationally Significant or Precedent Setting Issues</i> , OSWER Directive 9360.0-19, March 3, 1989. Subsequent guidance has modified some of these consultation requirements (<i>Response Actions at Sites with Contamination Inside Buildings</i> , OSWER Directive 9360.3-12, August 12, 1993).			
1) Removal actions at sites within the United States or its territories involving contamination or response actions that may affect other sovereign nations, including Indian Tribes.		M	
2) Removal actions involving pesticide contamination arising from: a) improper storage of pesticide products awaiting indemnification; b) lawful application of pesticides, including special local use pesticides; or c) grain fumigation operations.	M		
3) Removal actions at sites involving any form of dioxin when it is one of the principal contaminants of concern.	M		
4) Removal actions at sites involving releases from consumer products in consumer use (e.g., lead-contaminated soil resulting from peeling lead-based paint on houses).	M		
5) Removal actions involving asbestos when it is the principal contaminant of concern.	M		
6) Removal actions involving substances or releases which may be subject to statutory exclusions or limitations in CERCLA.	M		
7) Response actions at sites with contamination inside buildings (e.g., indoor releases of mercury).	M		

	1 R E G I O N	2 O E R R	3 A A
Levels of Management Review			
1. Regional Staff (S) and Management (M) (Region)			
2. Office of Emergency and Remedial Response Staff (S) and Management (M) (OERR)			
3. Assistant Administrator for the Office of Solid Waste and Emergency Response (AA)			
1) National Remedy Review Board (<i>National Remedy Review Board Progress Report: Fiscal Year 1996</i> , OSWER Directive 9220.0-24, January 1997; and <i>National Remedy Review Board Review Criteria for Federal Facility Superfund Sites</i> , OSWER Directive 9220.0-25, draft).			
Response selection decisions for <u>all sites</u> (except DOE Radioactive-waste and DOD BRAC sites):			
• Proposed remedy cost estimate exceeds \$30 million	M	M	
• Proposed remedy cost estimate exceeds \$10 million and is 50% greater in cost than that of the least-costly, protective, ARAR-compliant alternative	M	M	
Response selection decisions involving <u>radioactive-waste at DOE sites</u> :			
• Proposed remedy cost estimate exceeds \$75 million	M	M	
• Proposed remedy cost estimate exceeds \$25 million and is 50% greater in cost than that of the least-costly, protective, ARAR-compliant alternative	M	M	
2) Lead Sites Management Workgroup (<i>Per direction of Superfund Waste Management Division Directors' Lead Policy Forum on February 6, 1997.</i>)			
• Proposed remedy involves national precedent setting issues	M	M	

TABLE 4
CROSS-REGIONAL TECHNICAL REVIEW GROUPS

	1 R E G I O N	2 O E R R	3 A A
Levels of Management Review			
<p>1. Regional Staff (S) and Management (M) (Region)</p> <p>2. Office of Emergency and Remedial Response Staff (S) and Management (M) (OERR)</p> <p>3. Assistant Administrator for the Office of Solid Waste and Emergency Response (AA)</p>			
1) Technical Review Workgroup (TRW) for Lead Sites (<i>Administrative Reforms for Lead Risk Assessment</i>, OSWER Directive 9200.4-20, April 17, 1996)			
<ul style="list-style-type: none"> Send all completed lead risk assessments which used the IEUBK model to the TRW. A review will focus on consistency with guidance. Identify for the TRW all IEUBK risk assessments that are either in planning or underway. Identify for the TRW any application of the IEUBK that is expected to be challenged or will set a precedent in IEUBK application. Send any draft Regional guidance relating to lead to Headquarters for review prior to release. Any IEUBK risk assessment with outputs that are outside the range of 400 ppm to 1200 ppm should be submitted for review. Any adult lead risk assessment that would suggest a preliminary remediation goal (PRG) output outside the range of 500 ppm to 2000 ppm should be submitted for review. 	S S S S S S	S S S S S S	
2) Technical Review Workgroup for Dioxin Sites (<i>Headquarters Consultation for Dioxin Sites</i>, OSWER Directive 9200.4-19, December 13, 1996)			
<ul style="list-style-type: none"> Submit for review pertinent information for all sites where remediation goals are to be developed for dioxin in soil, regardless of whether dioxin itself drives the decision-making process. 	S	S	