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TITLE: CERCLA Funding of State-lead Removals

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LEVEL OF DRAFT

☐ A — Signed by AA or DAA



☐ B — Signed by Office Director

☒ C — Review & Comment

REFERENCE (other documents):

Supplements 9375.1-04, State Participation in the
Superfund Program Manual

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		United States Environmental Protection Agency Washington, DC 20460		1. Directive Number 9375-1-4-W	
OSWER Directive Initiation Request					
2. Originator Information					
Name of Contact Person Donald Kraft		Mail Code WH-548/B	Office OERR/ERD	Telephone Number 382-2452	
3. Title CERCLA Funding of State-lead Removals					
4. Summary of Directive (Include brief statement of purpose) To provide guidance to EPA Regions for the development, implementation and closeout of State Lead Cooperative Agreements for non-time critical removal actions.					
5. Keywords Superfund, CERCLA, removals, Cooperative Agreements, State-lead removals					
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This Request Meets OSWER Directives System Format					
8. Signature of Lead Office Directive Coordinator 				Date 2/25/86 11/8/86	
9. Name and Title of Approving Officer Timothy Fields, Jr., Director/ERD				Date 9/29/86	

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

SEP 29 1986

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

OSWER DIRECTIVE# 9375.1-4-W

MEMORANDUM

SUBJECT: Draft Guidance on CERCLA-Funded, State-Lead Removals

FROM: Timothy Fields, Jr., Director
Emergency Response Division

A handwritten signature in dark ink, appearing to read "Timothy Fields, Jr.", written over the printed name in the "FROM" field.

TO: Superfund Branch Chiefs, Regions I-X
OHM Coordinators, Regions I-X
MSCA Workgroup

Since April 1986, the Emergency Response Division has been working with the Multi-Site Cooperative Agreement (MSCA) Workgroup, in coordination with the Hazardous Site Control Division (HSCD), State and Regional Coordination Branch (SRCB) to develop draft guidance in the subject area.

Enclosed for your review and comments is a draft guidance document for implementing State-lead removals. This draft has been prepared in outline format and is intended to provide a framework from which to develop final guidance. This draft guidance has been reviewed by the MSCA Workgroup and has been revised to incorporate the Workgroup's comments.

The draft guidance sets forth the policies and procedures for awarding to States the authority and funds necessary to lead CERCLA-financed removal actions. Under this program, State-lead removal actions will be limited to non-time-critical removals at NPL and non-NPL sites. Regional Administrators will determine, on a case-by-case basis, removal actions appropriate for State-lead.

The draft guidance is divided into four major sections:

- Section I: Scope of State-Lead Removal Actions
- Section II: Development of Cooperative Agreement Application Packages
- Section III: Administering Cooperative Agreements
- Section IV: Closeout of Response Agreements

In addition, where applicable to removals, the draft guidance incorporates existing procedures and requirements for executing Cooperative Agreements for remedial actions as contained in the EPA manual entitled State Participation in the Superfund Program. Final guidance on State-lead removals will be issued as an appendix to this manual in late October.

We would appreciate your written comments on the attached draft by October 10, 1986. Please make your comments directly on the guidance document and send all comments to Don Kraft, Special Assistant to the Director of the Emergency Response Division. If you have any questions, please call Don at FTS 382-2452.

Attachments

cc: Don Kraft, ERD
Hans Crump, ERD/ROB
John Riley, ERD/RSCB

CERCLA FUNDING OF STATE-LEAD REMOVALS

I. SCOPE OF STATE-LEAD REMOVAL ACTIONS

A. Types of Actions

1. State-lead removal actions initially will be limited to non-time-critical removals at NPL and non-NPL sites. All time-critical removal actions will be Federal-lead, including actions that are initially categorized as non-time-critical, but due to extenuating circumstances, the Regional Administrator (RA) has determined to be time-critical.

(a) Non-time-critical removals appropriate for State-lead are actions where initiation of cleanup or stabilization efforts may be delayed for approximately six months or more from the time the threat is discovered.

(b) This response category includes all activities formerly categorized as initial remedial measures (IRMs) under the remedial program and longer term (non-time-critical) removals that can be planned in advance.

(c) To date, State experience in leading non-time-critical actions has been limited to IRM-type activities previously conducted under the remedial program. Examples of State-lead IRM-type responses include fence construction, erosion control and off-site disposal of hazardous waste. Additional examples are provided in Attachment 1.

2. The Superfund Comprehensive Accomplishments Plan (SCAP) process will be used as a planning/management tool for identifying removal actions appropriate for State-lead. Only removals that are listed on the approved or revised SCAP can be State-lead.

(a) Funds may not be obligated for State-lead removal actions that do not appear on the approved SCAP. Removal actions under consideration for State-lead must be listed on the SCAP at least one quarter in advance. However, these actions may be projected on the SCAP for more than one quarter in advance since, by definition, non-time-critical removals are actions where initiation of cleanup or stabilization efforts may be delayed for approximately six months or more from the time the threat is discovered.

(b) Removal actions identified for State-lead must be on the SCAP before the Action Memorandum and Cooperative Agreement

can be approved. Preparation of the Action Memorandum and Cooperative Agreement application can begin, however, before the removal action is placed on the SCAP.

(c) Revisions to the approved SCAP require coordination with EPA Headquarters. Regional Office of Hazardous Materials (OHM) Coordinators are responsible for initiating any necessary SCAP updates/revisions to ensure that sites identified for State-lead are placed on the SCAP, as required. OHM Coordinators should contact their designated Emergency Response Division (ERD) Regional Coordinator in EPA Headquarters when updates/revisions to the SCAP are required.

B. Scope of Activities

1. Only those activities authorized in the initial or amended Action Memorandum will be State-lead, including any operation and maintenance (O&M) that is CERCLA-funded.

(a) States will procure and lead all contractor cleanup and stabilization activities, including operation and maintenance activities authorized in the Action Memorandum.

(b) Once response begins, no non-Federal party other than the State may direct the response activities being performed either by the State or its contractor(s).

2. All CERCLA-funded preliminary assessment and 104(b)-type activities where necessary to assess the extent of contamination and to determine whether the incident meets the NCP and CERCLA criteria for removal action will be Federal-lead.

3. All enforcement activities, including PRP search, and notification and negotiation with potentially responsible parties will be Federal-lead. State-lead enforcement activities for removal actions may be considered once the program has been implemented.

C. Funding Mechanism

1. State-lead removal actions will be funded via a Letter of Credit.

(a) Under this method, CERCLA funds are provided to a State through an existing Letter of Credit established at a Federal Reserve Bank chosen by the State. The State uses -- or "draws down" -- funds from the credit account to cover its immediate cash needs.

(b) Under a Letter of Credit, funds are obligated when the Regional Administrator signs the Cooperative Agreement and

sends it as an offer of award to the State; funds become accessible to the State on an as-needed basis upon execution of the Cooperative Agreement.

The State Participation manual provides additional information on the Letter of Credit as a funding method.

D. Approval of State-Lead

1. The Regional Administrator will determine, on a case-by-case basis, removal actions appropriate for State-lead. Factors the RA should consider when evaluating a State's request to lead a CERCLA-funded removal include, but are not limited to:

- . State experience in leading activities conducted under the remedial program (e.g., IRM-type actions) that are similar to the response actions required to clean up or to stabilize the release at the site under evaluation for State-lead.
- . State experience in responding to hazardous waste spills/incidents independent of Federal involvement/funds.
- . Existence of a State Contingency Plan for hazardous substance release response.

2. A Removal Action Memorandum and Cooperative Agreement

Application are required for all State-lead removal actions. The Action Memorandum will be an integral part of the Cooperative Agreement and must be approved before an Agreement can be awarded to the State. A copy of the approved Action Memorandum will be made available to the State and will be provided when the Agreement is awarded, if not before. All Cooperative Agreement Applications, and amendments to the application, will be negotiated at the Regional level and approved by the Regional Administrator. OSCs or RPMs, as appropriate, will be the State's primary EPA contact for developing and negotiating Cooperative Agreements.

(a) EPA will prepare the Action Memoranda in accordance with current program procedures, and in close cooperation/consultation with the State. EPA will always select the response/activities to be taken at the site in consultation with the State. The Action Memorandum must document that the removal will be State-lead and identify what cleanup or stabilization actions must be taken within a specified cost and duration. The Action Memorandum must also identify activities that will be Federal-lead (e.g., enforcement activities).

- In accordance with program policy and procedures, the AA, OSWER must approve all Action Memoranda for removal actions initially or ultimately expected to

exceed the statutory limitation on cost; otherwise, the RA will approve the Action Memoranda, including exemptions to the limitation on time.

Changes in project scope, and exemptions to the statutory limitations on cost and duration must be documented and approved in accordance with current removal program procedures before the Cooperative Agreement is amended accordingly.

These procedures are discussed briefly in Section III of this guidance and in more detail in the Superfund Removal Procedures manual.

(b) States are responsible for preparing the Cooperative Agreement package, which must include:

- Cooperative Agreement Application, EPA Form 5700-33
- State certification letter
- Procurement System Certification, EPA Form 5700-48
- Intergovernmental review comments
- Quality assurance/quality control plan
- Community relations plan, if applicable
- Site safety plan.

States may supply the required site safety plan and community relations plan after the Cooperative Agreement has been signed. However, these plans must be submitted to EPA for review before any on-site activity can begin. In these situations, either the Cooperative Agreement Application or a special condition must provide that the State will provide these plans before on-site activity begins.

E. Types of Cooperative Agreements

A State must enter into a Cooperative Agreement with EPA before beginning a response action using CERCLA funds. A Cooperative Agreement is the mechanism established by the Federal Grant and Cooperative Agreement Act that a Federal agency uses to provide States or localities with funding assistance while retaining significant involvement in the project. The Cooperative Agreement documents the respective responsibilities of the recipient of Federal funds and the agency providing the assistance. Cooperative Agreements are used to:

- . Transfer funds for specific project(s)
- . Document the State's statutory and regulatory responsibilities and assurances

- . Approve project-specific budgets and scopes of work
- . Identify any special program requirements related to the project
- . Document the Federal agency's role and responsibilities during the project.

There are two types of Cooperative Agreements: 1) a site-specific Cooperative Agreement; and 2) a multi-site Cooperative Agreement (MSCA). State-lead removal actions may be executed via a site-specific or multi-site Cooperative Agreement.

1. Site-specific Cooperative Agreements are appropriate mechanisms to fund response activities required at a single site. These agreements cover one removal action at one site and can be amended to include additional removal activities and cost requirements necessary to complete the action at that site.
2. A multi-site Cooperative Agreement is an "umbrella" Cooperative Agreement that, under one funding document, may include several response activities at more than one site within a State. States requesting to lead removal actions at more than one site may choose to develop a MSCA or an existing MSCA may be amended to include a

State-lead removal. If the State agency identified to lead the response is different from the agency certified under the existing MSCA, the State must submit to EPA a State certification letter for that agency.

F. State Assurances

In order to enter into a Cooperative Agreement for a removal action, EPA policy requires States to provide assurances for (1) sharing in the cost of cleanup when appropriate, (2) providing a facility in compliance with the Resource Conservation and Recovery Act for off-site treatment, storage, or disposal of substances taken from a site, and (3) assuming responsibility for operation and maintenance (O&M). OSCs/RPMs are responsible for monitoring State compliance with these requirements.

1. States are not required to share in the cost of a removal action, unless that removal is conducted at an NPL site that was publicly owned (sites owned by a State or a political subdivision thereof) at the time of a release and a remedial action is ultimately undertaken at the site. In these situations, States are required to pay 50 percent of all removal costs. A State is not required to pay its cost share for the removal until the remedial action is funded by EPA.

2. States must ensure the availability of a hazardous waste treatment, storage or disposal facility, if the remedy requires

off-site treatment, storage, or disposal of hazardous substances. Such facilities must be in compliance with Subtitle C of RCRA and a RCRA compliance inspection must have been completed at the facility within the six-month period prior to the receipt of wastes. According to current EPA policy on off-site disposal (OSWER Directive #9330.2-3), non-time-critical removal actions are subject to these requirements. SPOs should contact their EPA-designated OSC/RPM or Regional RCRA Off-site Contact (RROC) for assistance in identifying disposal facilities and resolving issues pertaining to off-site disposal.

3. Removal program policy allows for payment of O&M for only six months maximum and requires the State to assume responsibility for O&M at the conclusion of the removal action. EPA may include funds for O&M for the project period covered in the Action Memorandum. However, a State must begin to operate and maintain the remedy at the conclusion of the CERCLA-financed action. The Cooperative Agreement Application or a special condition must provide an assurance that the State will assume responsibility for all future maintenance as long as necessary once the action is complete.

II. DEVELOPMENT OF COOPERATIVE AGREEMENT APPLICATION PACKAGES

The State is responsible for developing the Cooperative Agreement Application package. While the OSC/RPM will be the State's primary EPA contact for developing and negotiating Cooperative Agreements for removals,

Regions may elect to assign administrative responsibilities to Regional staff other than the OSC/RPM, usually a Regional Project Officer (RPO). State officials responsible for response agreements, usually State Project Officers (SPOs)*, should work closely with an EPA-designated OSC/RPM when developing the Cooperative Agreement. Additional support will be available through the ERD Regional Coordinator in EPA Headquarters. OSCs/RPMs and OHM Coordinators are responsible for reviewing the Cooperative Agreement Application for accuracy and completeness.

A. The Cooperative Agreement Application

The Cooperative Agreement Application package must include EPA Form 5700-33 and several attachments. The application form and the required attachments are briefly discussed below. Additional information is provided in EPA's manual entitled State Participation in the Superfund Program.

1. When applying for CERCLA funds, a State must complete EPA Form 5700-33, Application for Federal Assistance -- State and Local Nonconstruction Programs. This form consists of five parts:

- . Part I - General Summary Information
- . Part II - Project Approval Information

* While the term State Project Officer is used throughout the guidance to denote a State's counterpart to an EPA OSC/RPM, it is recognized that different terminology may be used among the States.

Part III - Budget Information

Part IV - Project Narrative Statement

Part V - Assurances.

General instructions for completing each part are included in the application form.

2. Attachments to the Cooperative Agreement Application

A Cooperative Agreement Application for removal actions must include the following attachments:

- . State certification letter
- . Procurement System Certification, EPA Form 5700-48
- . Intergovernmental review comments
- . Quality assurance/quality control (QA/QC) plan
- . Community relations plan, if applicable
- . Site safety plan.

These attachments are briefly discussed below. More detailed information is provided in the State Participation manual.

(a) A certification letter must be included in the Cooperative Agreement Application package. This letter must be signed by the Governor or Attorney General and must indicate that the agency entering into the agreement has both

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the authority to do so and to make the assurances required by CERCLA section 104(c)(3). This letter may be a generic, one-time statement that covers all sites within the State, or it may be site-specific. In the former case, if the application covers activities at several sites, the State must submit a site-specific letter for each site.

(b) In order to conduct procurement activities under the Superfund program, a State either must have an internal procurement system that meets the intent of EPA's regulation Procurement Under Assistance Agreements (40 CFR Part 33), or it must follow Part 33 when it conducts procurement and allow EPA oversight. The procurement certification form, EPA Form 5700-48, demonstrates whether or not the State's procurement system is equivalent to EPA requirements. A State is required to certify its system to EPA once every two years. If the State has previously provided this certification to EPA, the State needs only to indicate in Part A of the form the date the certification was originally submitted. If a substantial amount of construction is required in the contract for cleanup services, then the provisions of 40 CFR 33 are applicable and the Cooperative Agreement must contain a provision or condition to this effect.

(c) In accordance with Executive Order 12372, State-lead removal proposals are subject to intergovernmental review before EPA will obligate funds. Intergovernmental review is implemented under 40 CFR Part 29, Intergovernmental Review of EPA Programs and Activities. Under this regulation, if the State has an established review process that includes the project in question, an applicant must formally notify its designated single point of contact, as well as any directly affected governmental entities and areawide or regional planning agencies that it is seeking Federal assistance. A copy of the notification should be sent to the appropriate EPA Regional office. Any comments received in response to this notification must be attached to the Cooperative Agreement Application. Funds will not be obligated to the State until representatives of the State have had an opportunity to comment on the proposed project(s). The intergovernmental review process should be initiated at least one quarter prior to obligation of funds for response at a site. This lead time is necessary to meet the required 60-day State review period and to allow time for EPA to respond to State and local comments. EPA must accommodate, or explain why it cannot accommodate, each comment received during the formal process before it can award funds to the State.

(d) Section 300.67(b) of the revised National Contingency Plan (NCP) requires a formal community relations plan (CRP) for all removal actions that last longer than 45 days. States are therefore required to develop and implement a CRP for all removal actions that are expected to extend beyond this designated time frame. Additional information on CRPs and guidance for developing these plans is provided in the Superfund Removal Procedures manual. As noted earlier, States may submit the CRP separately from the Cooperative Agreement Application package. In that event, either the Cooperative Agreement Application or a special condition must state that the State will submit the CRP prior to beginning on-site activities. The CRP will be subject to EPA review and approval.

(e) As required by 40 CFR Part 30.302(d)(2) a State must submit within 30 days of receiving its Cooperative Agreement the QA/QC procedures it intends to use in environmental monitoring. These include any sample collection and analysis activities that may be necessary during the response. One generic QA/QC plan is sufficient for an MSCA. In addition, however, States are required to develop a site-specific Quality Assurance Project Plan (QAPP) to describe the measurement systems it intends to use on site.

(f) States are required to have a site safety plan in place before field activities can commence. A site-specific plan must be developed for each removal action. Each safety plan must provide for the protection of on-site personnel and area residents. Plans must be consistent with site conditions and must cover all phases of incident operations. Site safety plans must also comply with all applicable Federal, State and local Occupational Safety and Health (OSH) laws. Each site-specific safety plan must be submitted to the OSC for review to ensure removal program requirements are met. Additional information on site safety plans is provided in the Superfund Removal Procedures manual. Site safety plans may be submitted to EPA after the Cooperative Agreement has been signed providing that the application or a special condition provides that the State that the plan will be submitted for EPA review before on-site activities begin..

III. ADMINISTERING COOPERATIVE AGREEMENTS

OSCs/RPMs and SPOs are responsible for ensuring that response activities are conducted according to the agreed-upon scope of work, budget, and schedule included in the Cooperative Agreement and Action Memorandum. The State official responsible for directing response activities, usually the State Project Officer, must ensure that all on-site activities are consistent with CERCLA, the NCP and removal program policies and procedures. Daily on-site presence by SPOs therefore may be required. The

OSC/RPM and SPO should maintain close communication at all times to monitor progress effectively. This can include meetings, phone calls, written correspondence, and review of contractor monthly progress reports. In addition, the OSC/RPM and SPO should notify each other immediately of any unscheduled or unanticipated events (e.g., a fire or explosion on site that may require an emergency response by EPA) that may have a direct impact on the project and/or on the terms of the response agreement.

This section briefly discusses State reporting and cost documentation requirements, monitoring State financial commitments and procedures for agreement adjustments. Additional information on response agreement administration and reporting and cost documentation requirements is provided in the State Participation manual.

A. Reporting Requirements

When entering into a Cooperative Agreement, States are subject to a number of reporting requirements, including submittal of technical progress reports, financial status reports and other reports as may be required in the Cooperative Agreement. These reporting requirements are discussed briefly below.

1. For removal actions, States must submit technical progress reports on a monthly basis and at the end of each response. These reports are submitted to the Region and present information on activities performed during the month and on total work to date.

(a) The OSC/RPM is responsible for reviewing technical progress reports and providing any necessary direction or assistance to the State, as required. The content of State reports should be tailored to specific requirements of the response activities as covered in the Action Memorandum and the provisions of the Cooperative Agreement. All information should be site-specific and the OSC/RPM and SPO should reach an initial agreement on the content and format of these reports during negotiation of the Cooperative Agreement.

(b) In addition, the State must prepare and submit a final technical progress report to the OSC/RPM within 45 days after the completion of the removal action. Removal actions are complete when the scope of work in the Action Memorandum has been completed and the State has demobilized.

2. Once a removal action has been completed, States must submit a Financial Status Report (FSR), Standard Form 269, and any ancillary reports. Ancillary reports include statistical or monitoring data, operation and maintenance manuals and other reports as required in the Cooperative Agreement. The State should submit an FSR and all ancillary reports to the OSC/RPM within 45 calendar days after completion of the removal action. In addition, a Final OSC Report must be prepared at the conclusion of each removal action in

accordance with the NCP and removal program policy and procedures. This report will be prepared by the SPO, in consultation with the OSC/RPM, and must be signed by the SPO and OSC/RPM.

B. Cost Documentation Requirements

When entering into a Cooperative Agreement, States must also adhere to certain cost documentation requirements as set forth in 40 CFR Parts 30 and 33 and all additional Superfund-specific requirements or procedures for documenting State expenditure of CERCLA funds.

1. For removal actions, State accounting and recordkeeping activities must be detailed on a site-specific basis to ensure effective cost recovery. States must also track and report expenditures by object class category. Superfund procedures include documentation and recordkeeping measures intended to protect the integrity of site data, such as:

- (a) Prohibiting the replacement of original material in files with copies unless authorized in writing by EPA

- (b) Prohibiting archive research unless authorized in writing by EPA.

2. In addition, the Superfund program adheres to the general Agency-wide policy that, when requested by EPA, States must

provide documentation to support cost recovery litigation and related efforts. Documentation must be available for use as evidence to answer questions such as what work was authorized, what work was completed, what charges were incurred for the work, and what payments were made for the work.

C. Monitoring Financial Commitments

OSCs/RPMs are responsible for ensuring that State expenditure of CERCLA funds corresponds to technical progress at the site and is within the cost ceiling in the Action Memorandum and Cooperative Agreement. Total Letter of Credit drawdowns may not exceed the amount obligated for the response in the Cooperative Agreement.

1. The OSC/RPM should review State drawdowns on a monthly basis, using drawdown information available from the Regional financial management office. Key documents for this review include the Financial Management System (FMS) Outlay Report and the State's monthly progress and financial reports.
2. Funds awarded under a Cooperative Agreement are assigned an activity (e.g., removal action) and site code. The OSC/RPM should ensure that the State is drawing funds from the proper account for the site and for the action funded. The account from which drawdowns are made, identified in the FMS Outlay Report and the State monthly report, must match the action being conducted.

3. Under a multi-site Cooperative Agreement, when a removal at a particular site has been completed, remaining funds may be used to fund removal activities at another site covered by the same Agreement. Such funds, however, must be officially transferred to the appropriate account. A transfer of funds between sites under a MSCA requires a formal amendment to the Cooperative Agreement to move the funds from one account to another. Funds remaining in a credit account at the completion of a removal should be deobligated and returned to EPA unless the State requires additional funds to support other removal actions covered in the same Cooperative Agreement. All amendments to Cooperative Agreements will be negotiated at the Regional level. This requirement will ensure that the statutory limitation on cost is adhered to when there is a need to transfer funds.

D. Agreement Adjustments

Agreement adjustments consist of alterations in the amount, terms, conditions, project period, project scope or some other administrative, technical, or financial aspect of the Action Memorandum or Cooperative Agreement. Depending upon the significance of the change, adjustments to the Agreement can be made, either through formal amendments or in writing, between the OSC/RPM and the SPO. Modifications to Action Memoranda are subject to current removal procedures and policy. All modifications to the initial Action Memorandum (e.g., ceiling increases,

exemptions to the statutory limits on cost and duration) must be documented in an amended Cooperative Agreement, but only after the Action Memorandum requesting the modification has been approved. Circumstances where a Cooperative Agreement and Action Memorandum must be formally amended are presented below.

1. A Cooperative Agreement must be amended when it requires a significant change. These occur when:

Objectives and/or scope of the project, as funded, are altered

Funds obligated under one accounting code will be used for a different activity or a different site

There is any increase or substantial decrease in the project period or budget

A rebudgeting of funds occurs, such as a transfer between cleanup services and another object class category or a change in the amount of indirect costs

Changes to special conditions to the Cooperative Agreement award document.

(a) Formal amendments are not required for minor project changes that are consistent with the project's objectives. Minor changes include shifts between object class categories (except as indicated above) and adjustments to the work plan within the scope and objectives of the funded project. Minor project changes should be approved in writing by the OSC/RPM or the Regional Administrator, as appropriate.

(b) Responsibility for requesting and obtaining approval of modifications to the Cooperative Agreement rests with the SPO and OSC/RPM. The SPO or the OSC/RPM identifies the need for an adjustment and the SPO initiates the approval process by submitting a request to the Region. The OSC/RPM then determines whether a formal amendment is needed, and if so, transmits the request to the Regional Administrator. If the RA signs the amendment, it is sent to the State for acceptance and is executed upon signature by an authorized State official.

2. According to standard removal program policy and procedures, special requests, in the form of Action Memoranda, must be prepared when the following are required subsequent to approval of the initial Action Memorandum:

An increase in the project's established cost ceiling

Exemptions to the statutory limitations on cost and duration

Changes in scope of work

Changes necessary among cost categories where no change in total project ceiling is required.

Guidance on the procedures for requesting, and obtaining approval for these changes, is set forth in the Superfund Removal Procedures manual. OSCs/RPMs are responsible for preparing these requests and obtaining the necessary concurrence, as well as ensuring that the Cooperative Agreement is amended accordingly.

IV. CLOSEOUT OF RESPONSE AGREEMENTS

In order to close out a Cooperative Agreement, EPA must determine that the State has completed the removal action and complied with all applicable administrative requirements under the agreement. The general closeout responsibilities of the State and the OSC/RPM are briefly discussed below.

A. State Responsibilities

1. A State must complete the work specified in the Cooperative Agreement and the Action Memorandum and produce the required reports (e.g., final FSR and technical progress report), manuals,

plans and other information. The State is responsible for ensuring that all products and reports necessary for closeout are submitted to EPA, as required.

2. The SPO is responsible for the completion of the final report as described in the Cooperative Agreement including the reports and activities as follows:

- . Draft and final technical report
- . Final FSR
- . Ancillary products such as O&M manuals
- . Property/equipment report
- . Other required reports.

B. EPA OSC Responsibilities

1. OSCs/RPMs are responsible for ensuring that the State has provided all required reports and is in compliance with the provisions of the Cooperative Agreement and Action Memorandum.

2. Specific OSC/RPM responsibilities are as follows:

- . Reviews/inspects work in the project and arranges for acceptance or correction

- . Reviews and approves required reports
- . Follows through on delinquencies or deficiencies
- . Ensures that all disputes and audit exceptions are resolved
- . Transmits final determinations on any outstanding issues
- . Documents the closure in the official file
- . Maintains the official records.

The State Participation manual provides detailed guidance on closing out response agreements. OSCs/RPMs should refer to the State Participation manual for additional information on the requirements/procedures for closing out Cooperative Agreements.

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Attachment 1

EXAMPLES OF STATE-LEAD IRM PROJECTS CONDUCTED UNDER THE REMEDIAL PROGRAM

Excavation and off-site disposal of surface and
buried waste materials and contaminated soil

Fence construction

Bank stabilization

Water supply treatment of municipal well

Installation of carbon filters on private
wells

Construction of lagoon perimeter dike

Temporary cap for lagoons

Posting of cautionary signs along creek

Storm water control