



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

JUL 25 1997

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

MEMORANDUM

SUBJECT: Coordinating with the States on National
Priorities List Decisions -- Issue Resolution
Process

FROM: Timothy Fields, Jr., *Timothy Fields, Jr.* Acting Assistant Administrator
Office of Solid Waste and Emergency Response

TO: Regional Administrators
Regions I - X

PURPOSE

The purpose of this memorandum is to describe the process that will be employed in cases where a Regional Office of the U.S. Environmental Protection Agency (EPA) recommends proposing or placing a site on the National Priorities List (NPL), but the State or Tribe (hereafter referred to as "State") opposes listing the site.

BACKGROUND

The Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, Fiscal Year 1996, included a requirement that EPA must receive a written request from the Governor of the State in order for the Agency to propose to place a site on the NPL, or to place a site on the NPL. However, the Department of Veterans Affairs and

Housing and Urban Development, and Independent Agencies Appropriations Act, Fiscal Year 1997, Public Law 104-204, did not contain such a requirement. On November 14, 1996, the Office of Solid Waste and Emergency Response (OSWER) issued a memorandum entitled, "Coordinating with the States on National Priorities List Decisions". According to that memorandum, an EPA Regional Office requests the position of the State on a site that the Region is considering for NPL listing. The Regional Administrator directs a written inquiry to the governor, with a copy to the State commissioner. For some sites, a State may not agree that EPA should proceed with NPL listing. The purpose of this memorandum is to outline the process that will be employed when the State does not agree that a site should be listed, but the Region believes it has sufficient reasons to proceed with the NPL listing process.

IMPLEMENTATION

EPA Regional Offices have been seeking the position of the States on sites that the Region is considering for NPL listing. In some cases, the State may not agree that EPA should pursue NPL listing, but the Region believes it has sufficient reasons to proceed.

In these cases, the Region should work closely with the State to try to resolve the issue before raising it to EPA Headquarters. The Region should take into account past, ongoing and planned response actions by the State.

If the Region determines that the issue cannot be resolved at the Regional level, the Regional Superfund Division Director should inform the Director of the State, Tribal and Site Identification Center (ST/SI) of the Office of Emergency and Remedial Response (OERR) and/or the appropriate ST/SI Regional Coordinator. OERR should then brief the Assistant Administrator (AA) for Solid Waste and Emergency Response. The State should have the opportunity to present its position in writing. The OSWER AA will then decide whether to pursue NPL listing. A case could arise where the Region notifies the State in writing of its desire to proceed with listing a site and provides an appropriate deadline for a response, but the State does not respond. In such a case, EPA may proceed with the NPL listing process.

CONCLUSION

The EPA Regional Offices have been working closely with the States to ensure that sites are evaluated and that response actions, if warranted, are taken as quickly as possible. EPA will continue to work with the States to assess sites and to prepare and submit HRS packages for those sites that are the highest priority for listing on the NPL. The Agency also will coordinate with the ATSDR and the Natural Resource Trustees in gathering information for the process.

If you or your staff have any questions, you may contact me at (202) 260-4610, or Dave Evans, Director of the ST/SI Center, at (703) 603-8885.

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