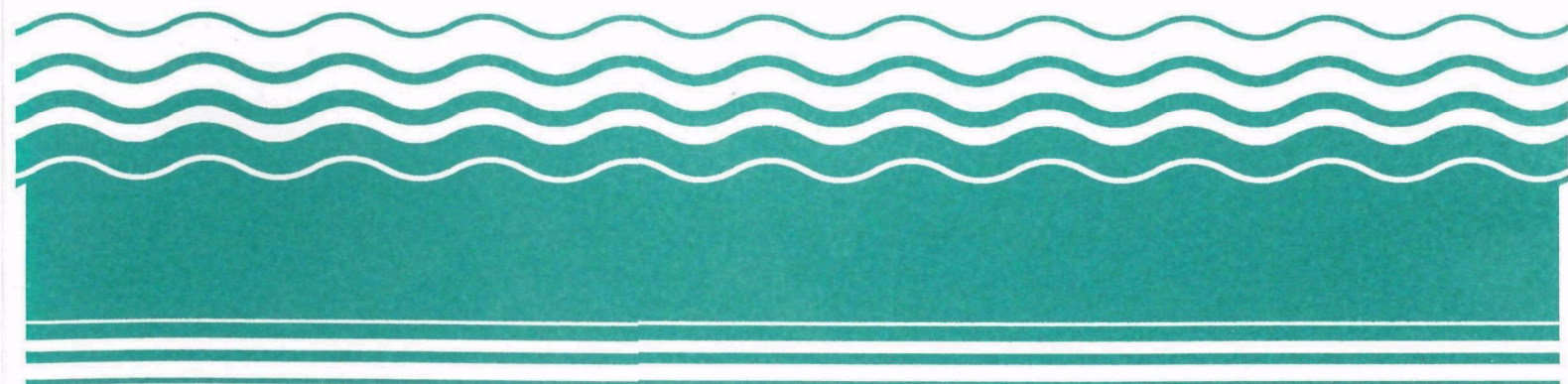




SUPERFUND REMOVAL PROCEDURES

RESPONSE MANAGEMENT: REMOVAL ACTION START-UP TO CLOSE-OUT



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Office of Emergency and Remedial Response
U.S. Environmental Protection Agency
Washington, D.C. 20460

NOTICE

The procedures set out in this document 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. Environmental Protection Agency (EPA) officials may decide to follow the guidance provided in this document, or to act at variance with the guidance, based on an analysis of site circumstances. The Agency also reserves the right to change this guidance at any time without public notice.

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This document is part of a ten-volume series of guidance documents collectively titled the *Superfund Removal Procedures*. These stand-alone volumes update and replace Office of Solid Waste and Emergency Response (OSWER) Directive 9360.0-3B, the single-volume *Superfund Removal Procedures* manual, issued in February 1988.

Each volume in the series is dedicated to a particular aspect of the removal process and includes a volume-specific Table of Contents, Reference List, and Key Words Index. The series comprises the following nine procedural volumes:

The Removal Response Decision: Site Discovery to Response Decision

Action Memorandum Guidance

Response Management: Removal Action Start-Up to Close-Out

Removal Enforcement Guidance for On-Scene Coordinators

Public Participation Guidance for On-Scene Coordinators: Community Relations and the Administrative Record

Removal Response Reporting

Special Circumstances

Guidance on the Consideration of ARARs During Removal Actions

State Participation.

In addition, the series includes an Overview volume, containing a comprehensive Table of Contents, List of Exhibits, Key Words Index, List of Acronyms, and Glossary, for use as a quick reference.

This document summarizes the relevant guidance and statutory authorities for providing response management during removal actions. Appendix A provides a comprehensive list of supporting guidance documents that may be consulted for additional information on relevant topics. Bracketed numbers [#] appear throughout the text to indicate specific references in Appendix A. Consult the referenced documents for a more detailed explanation of removal management policies and procedures. In addition, appropriate sections of statutes and regulations are also cited throughout the text, with a full citation of each statute and regulation also appearing in Appendix A. Appendix B contains the Key Words Index.

EPA On-Scene Coordinators (OSCs) are the managers of Superfund removal actions. OSCs conduct removal activities and coordinate the activities of EPA personnel, other Federal and State agencies, potentially responsible parties (PRPs), and contractors. Major activities undertaken by OSCs include:

- Ensuring worker and visitor health and safety;
- Procuring contractors and monitoring contractor performance;
- Managing schedules and costs;
- Providing enforcement support;
- Ensuring that the public is aware of activities at the site; and
- Documenting all activities and complying with administrative record requirements.



OSCs must manage not only the overall removal action but also the day-to-day response activities.

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The Superfund Removal Procedures Response Management: Removal Action Start-Up to Close-Out guidance document provides general guidance for those involved in managing Superfund removal actions. The document clarifies terms and concepts in the removal management process and provides guidelines for accomplishing the different steps of a removal action. The remainder of this introductory section presents an overview of the removal authority, describes the scope of response, and discusses the different steps involved in response start-up.

Removal Authority

Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, authorizes EPA to conduct a removal action whenever there is a release or threatened release of a hazardous substance into the environment, or a release or threatened release of a pollutant or contaminant that may present an imminent and substantial danger to the public health or welfare. CERCLA section 101(23) and §300.5 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP, 40 CFR Part 300) define a removal action as the cleanup or removal of released hazardous substances from the environment. This definition includes:

- Actions taken in the event of a release or threatened release of hazardous substances into the environment;
- Actions taken to monitor, assess, and evaluate the release or threatened release of hazardous substances;
- Disposal of removed material; or
- Other actions to prevent, minimize, or mitigate damage to the public health or welfare or to the environment.

Removal actions are usually relatively short-term responses that may take place at sites on the National Priorities List (NPL) as well as at sites not on the NPL. The specific situations in which CERCLA-funded (also called Fund-financed) removal actions may occur are guided by the criteria in §300.415(b)(2) of the NCP.

The EPA Regional On-Scene Coordinator (OSC) is the key manager at a removal action site. The OSC directs response efforts and coordinates all other efforts at the scene of a release or threatened release. The OSC directs and reviews the work of other Federal and State agencies, responsible parties, and contractors to ensure compliance with the NCP; reviews and approves all decision documents, enforcement orders, and lead-agency approved plans applicable to the response; and ensures that all staff working on-site are adequately trained and know all site operating and safety guidelines.

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Scope of Response

Amendments to CERCLA and revisions to the NCP have provided Superfund response personnel with the flexibility to expeditiously address threats at both NPL and non-NPL sites. The urgency of the situation determines the type of removal action ultimately taken; because removal actions vary according to their urgency, OSCs may manage a wide range of technical activities under removal authority.

Categories of Removal Actions

At the outset of a potential removal action, OSCs must estimate the urgency of a situation (i.e., the maximum time that may elapse between the site evaluation and the initial response without posing additional significant risks to human health, welfare, and the environment). This estimate is essential for determining the extent of activities conducted prior to starting cleanup work (e.g., PRP search and negotiations, preparing an engineering evaluation/cost analysis (EE/CA), determining compliance with other environmental statutes).

Not all actions classified as removal actions under the NCP are equally urgent. For example, situations involving fire/explosion or imminent, catastrophic contamination of a reservoir may require more prompt and expeditious action than certain removals of drums or cleanups of surface impoundments. The three categories of removal actions, based upon the urgency of the situation, are:

- *Emergency* — Those removal actions where the release or threat of release requires that response activities begin on-site within hours of the lead agency's determination that a removal action is appropriate.
- *Time-critical* — Those removal actions where, based on a site evaluation, the lead agency determines that a removal action is appropriate and that on-site activities must be initiated within six months.
- *Non-time-critical* — Those removal actions where, based on a site evaluation, the lead agency determines that a removal action is appropriate and that there is a planning period of at least six months available before on-site activities must begin. The lead agency for non-time-critical removal actions will undertake an EE/CA or its equivalent.

Because removal program resources are limited, the Office of Emergency and Remedial Response (OERR) has established priorities for removal actions based upon these classifications. The highest priority for removal resources is given to emergencies. Time-critical removal actions at NPL sites are second in priority, followed by time-critical removal actions at non-NPL sites posing major health and environmental threats that cannot be addressed by other authorities. As resources permit, non-time-critical removal actions at NPL sites may be conducted [1].

Special Circumstances During Emergency Situations

Certain emergency situations may require an OSC to immediately initiate response activities by invoking the OSC's \$200,000 authority.¹ Emergencies that may require such immediate response include transportation accidents, releases at active or operating facilities, deliberate dumps, or when there is a risk of death, injury, or catastrophic environmental damage from releases at inactive/abandoned facilities or sites. If OSCs use their \$200,000 authority, they must prepare an Action Memorandum within one week of the start of the removal action, depending on the extent of mitigation efforts. OSCs should send copies of these Action Memoranda to their appropriate Regional management representative and Regional Coordinators, and place a copy in the site file. More detailed information can be found in the *Superfund Removal Procedures Action Memorandum Guidance* [2].

Statutory and Other Limits on Removal Actions

CERCLA section 104(c)(1) stipulates that Fund-financed removal actions (other than those studies and investigations authorized by section 104(b)) *cannot continue after \$2 million have been obligated for the action or after twelve months² have elapsed from the date of initial response*, unless the lead agency grants an exemption to these statutory limits. The OSC should determine at the earliest possible time if an exemption will be needed. The Agency has defined the start of the twelve-month limit to be the date on which on-site cleanup activities commence. Investigating and planning activities are not included in the time limitations.

In addition to the limitations on cost and duration, CERCLA section 104(a)(3) states that a removal action may not be taken in response to a release or threatened release:

- Of a naturally occurring substance in its unaltered form, or in a form altered solely through naturally occurring processes or phenomena, that are also from a location where it is naturally found;
- From products that are part of the structure of residential buildings or business or community structures and result in exposure within such structures; or
- Into public or private drinking water supplies due to deterioration of the system through ordinary use.

Section 104(a)(4) of CERCLA, however, provides that EPA may respond to any release or threatened release, including those situations listed above, if it is determined that the incident

¹ Where applicable; the redelegation of the "\$200,000 authority" to OSCs varies by Region. A revision to this authority has increased the ceiling from \$50,000 to \$200,000 for emergencies only.

² This twelve-month period is calculated starting from the date of initial response. Even if the work is conducted intermittently, Fund-financed removal actions cannot continue for more than twelve months after the date of initial response.

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constitutes a public health or environmental emergency and *no other person with the authority and capability to respond to the emergency will do so in a timely manner.*

*In addition, the concurrence of the Director of OERR must be obtained prior to the initiation of removal actions taken at non-NPL sites where the proposed action is nationally significant or precedent-setting. Because the assessment of the potential long-term implications of initiating certain removal actions is largely interpretive, OSCs and Regional personnel should consult the *Guidance on Non-NPL Removal Actions Involving Nationally Significant or Precedent-Setting Issues* [3] whenever considering a removal action at a non-NPL site.*

To minimize the possibility of lengthy disruptions once the twelve-month period has started, OSCs are encouraged to anticipate and obtain as much of the needed expertise, technical personnel, and equipment prior to the start date of the removal action as is practicable. Resources available to the OSC include:

- Superfund removal program contractors;
- Interagency Agreements (IAGs); and
- Superfund State Contracts (SSCs) and cooperative agreements (CAs).

OSCs should decide, in consultation with Regional contract management staff, the Office of Regional Counsel (ORC), and the Environmental Response Team (ERT), as appropriate, how to best use the above services to minimize disruptions and respond to the release expeditiously.

Response Start-Up

The response start-up phase of a removal action consists of four primary components: (1) discovery/notification; (2) removal site evaluation; (3) coordination with the State and other agencies; and (4) decision documentation. Depending on the urgency of the situation and the type of removal action to be taken, the OSC should conduct these activities prior to and during a response to a release or a threat of a release.

Discovery/Notification

According to §300.405 of the NCP, a release may be discovered through six different mechanisms: (1) notification in accordance with section 103(a) of CERCLA; (2) notification in accordance with section 103(c) of CERCLA; (3) investigation by governmental authorities; (4) notification of a release by a Federal or State permittee when required by the permit; (5) inventory or survey activities, or random or incidental observation by government agencies, PRPs, or the public; or (6) submission of a citizen petition to EPA or the appropriate Federal facility requesting a preliminary assessment, in accordance with section 105(d) of CERCLA.

When necessary, notification must also be made in accordance with other environmental statutes and regulations, including: Clean Water Act (CWA) section 311; Resource Conservation and Recovery Act (RCRA) Subtitle C; Toxic Substances Control Act (TSCA)

section 8(e); reporting requirements established under the Hazardous Materials Transportation Act; and requirements established by the Nuclear Regulatory Commission for reporting releases of certain radioactive substances. In addition to the mechanisms outlined above, section 304 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) requires notification of releases involving hazardous substances and extremely hazardous substances (EHSs), as defined under section 302(a), from facilities at which hazardous chemicals are produced, used, or stored.

Following notification of a release, the OSC must determine whether the incident may require a removal action pursuant to §300.415(b) of the NCP. If the release meets the NCP criteria, the OSC should begin a removal site evaluation; otherwise, the OSC should refer the release to either EPA remedial response staff to conduct a site evaluation pursuant to §300.420 of the NCP or another appropriate Federal or State authority.

Removal Site Evaluation

Section 300.410 of the NCP directs EPA to conduct, as promptly as possible, a removal site evaluation of a release or threatened release that has been identified for a possible removal action. The removal site evaluation consists of a removal preliminary assessment (PA) and a removal site inspection (SI). During a removal site evaluation, the OSC should consider the types and concentrations of contaminants, cleanup action levels, and mitigation options. The OSC has the responsibility for conducting this evaluation for EPA-lead removal actions.

Depending upon the characteristics of the release and urgency of the situation, the removal PA may require anywhere from an hour to several weeks to complete. The OSC may undertake a variety of activities to collect the necessary information. For example, a removal PA may include the collection or review of data such as site management practices, information from generators, photographs, analysis of historical photographs, literature searches, and personal interviews. In general, the removal PA for emergencies will rely primarily on readily available, existing information and on any available sample data. When the incident allows for longer evaluation, the removal PA may include more analytical and monitoring efforts.

If additional information is needed, the OSC can perform a removal SI that may include an on- or off-site (perimeter) inspection, taking safety into consideration. Moreover, OSCs may conduct further studies or investigations as part of the removal site evaluation under CERCLA section 104(b). The results of the removal site evaluation must be documented and included in the administrative record.

The OSC is also responsible for initiating a PRP search during the removal PA to identify and compel/negotiate with legally responsible parties to take corrective action. OSCs have several resources for assistance with the PRP search, including Regional enforcement staff, ORC, and contractor resources. In addition, OSCs or other enforcement personnel must notify the appropriate National Enforcement Investigations Center (NEIC) immediately when criminal

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activity is suspected [4]. Enforcement activities are ongoing throughout the course of a removal action.

OSCs are strongly encouraged to submit Pollution Reports (POLREPs) to Regional management, Headquarters Regional Coordinators, the appropriate Regional Response Team (RRT), and other appropriate agencies, documenting those situations where removal PAs were initiated, but no removal actions were conducted. More detailed information on drafting and submitting POLREPs can be found in the *Superfund Removal Procedures Removal Response Reporting: POLREPs and OSC Reports* [5].

Coordination with the State and Other Agencies

In addition to the potential PRP response, the OSC must evaluate the potential for a response by other Federal, State, or local agencies. The Department of Defense (DOD) and the Department of Energy (DOE) have the lead responsibility for undertaking and financing removal actions at their own facilities. EPA will respond to emergencies at all other Federal agencies. Factors to consider when evaluating the potential for State and local response are the urgency of the situation and the ability and willingness of relevant agencies to take action.

If a Fund-financed removal action is appropriate, the OSC should consult with the State before initiating action and request a list of applicable or relevant and appropriate requirements (ARARs) from the appropriate State agency. In addition, the OSC must notify State and Federal natural resource trustees of potential injuries to natural resources. For emergency removal actions, however, the OSC should not delay response in order to identify potential ARARs. More detailed information on ARARs can be found in the *Superfund Removal Procedures Guidance on Consideration of ARARs During Removal Actions* [6].

Decision Documentation

An Action Memorandum is the primary decision document for a removal response, providing a concise written record of the decision for selecting a specific removal action. The Action Memorandum describes the site history, current activities, and health and environmental threats; outlines the proposed actions and costs; and documents approval of the proposed action by the proper Headquarters' or Regional authority. More detailed information on Action Memoranda can be found in the *Superfund Removal Procedures Action Memorandum Guidance* [2].

Engineering Evaluations/Cost Analyses (EE/CAs) are required for non-time-critical removal actions. An EE/CA should contain information on site characteristics, identification of removal action objectives, and identification and analysis of removal action alternatives. A completed EE/CA must be placed in the administrative record. At the same time, a notice of EE/CA availability must be published in a local newspaper with a brief summary of the EE/CA and an announcement of a public comment period of at least 30 days. Upon conclusion of the public comment period, a written response to significant comments must be prepared and placed in the administrative record. More detailed information on EE/CAs

can be found in the *Guidance on Conducting Non-Time-Critical Removal Actions Under CERCLA* [7].

A more detailed discussion of the removal response start-up phase can be found in the *Superfund Removal Procedures Removal Response Decision: Site Discovery to Response Decision* [8].

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OSCs are responsible for directing removal response operations. This responsibility includes ensuring that all on-site activities are consistent with CERCLA, the NCP, and Superfund program policies and procedures; that all expenditures of funds are appropriate and reasonable; and that subsequent cost-recovery actions will be supportable. In fulfilling these and other responsibilities, OSCs have a variety of resources available to them. These include national, Regional, and specialized response teams; EPA personnel; contract resources; other Federal agencies; and State and local governments.

Response Teams

The NCP established two teams to assist in Superfund responses: the National Response Team (NRT) and the Regional Response Team (RRT). These teams provide the OSC with important technical, coordination, and communication resources that can be used to develop emergency preparedness plans and to respond to specific releases. In addition to these two teams, the ERT, and the Radiological Emergency Response Teams (RERTs) serve as EPA's in-house consultants. The ERT specializes in treatment technology, with specialists in biology, chemistry, hydrology, geology, and engineering available to assist during removal actions. The RERTs specialize in radiation monitoring, radionuclide analysis, radiation health physics, and risk assessment.

National Response Team

Under §300.110 of the NCP, national planning and coordination is accomplished through the NRT. As defined by §300.110(a), the NRT consists of representatives from EPA, the United States Coast Guard (USCG), and the following Federal agencies:

- Department of Agriculture;
- Department of Commerce;
- Department of Defense;
- Department of Energy;
- Department of Health and Human Services;
- Department of the Interior;
- Department of Justice;
- Department of Labor;
- Department of State;
- Department of Transportation;
- Department of Treasury
- Federal Emergency Management Agency;
- General Services Administration; and
- Nuclear Regulatory Commission.

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Each agency names a member to the team and designates sufficient numbers of alternates to ensure representation, as agency resources permit. Other agencies may request membership through the Chairman of the NRT. The EPA representative serves as the Chairman, and the USCG representative serves as Vice Chairman, except during periods of activation for response. When the NRT is activated, the EPA representative serves as Chairman for inland responses; the USCG representative for responses to incidents in the coastal zone.

According to §300.110(j) of the NCP, the NRT should be activated as an emergency response team if requested by any NRT member or when an oil discharge or hazardous substance release:

- Exceeds the response capability of the Region in which it occurs;
- Transects Regional boundaries; or
- Involves a significant threat to public health or welfare, the environment, substantial amounts of property, or natural resources.

When activated for a response action, the NRT, upon request of the Chairman, may:

- Monitor/evaluate reports from the OSC and recommend, through the RRTs, specific response actions;
- Request resources from other Federal, State, or local governments or private agencies under their existing authorities to combat a discharge or release, or to monitor response operations; and
- Coordinate the supply of equipment, personnel, or technical advice to the affected Region from other Regions.

Regional Response Team

RRTs are the appropriate Regional mechanism for pre-response planning and preparedness activities as well as for coordination and advice during response actions. RRT membership parallels that of the NRT, but also includes State and local representatives. The two principal components of the RRT are:

- Twelve *standing teams* consisting of designated representatives from each participating Federal agency, and State and local governments. The jurisdiction of each standing team corresponds to the standard Federal Regions, except for Alaska and the Caribbean area, which also have standing RRTs. The role of the standing RRT includes Region-wide communications, planning, coordination, training, evaluation, and preparedness.

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- *Incident-specific teams* for which participation depends on the technical nature and location of the incident. The RRT chairman for the incident determines the appropriate levels of activation, including participation by State and local governments.

Specific functions the RRTs may perform under §300.115(j)(4) of the NCP include:

- Monitoring and evaluating reports from the OSC, advising the OSC on the extent and duration of response, and recommending specific response actions to respond to the discharge or release;
- Requesting resources for response or monitoring operations from other Federal, State, or local governments, or private agencies;
- Assisting the OSC with preparing public information releases and communicating with the NRT;
- Recommending designation of another OSC, if circumstances warrant; and
- Submitting POLREPs to the National Response Center.

Pursuant to §300.115(j)(1) of the NCP, an RRT may be activated by the chairman as an incident-specific response team when a discharge or release:

- Exceeds the response capability available to the OSC at the location of the discharge or release;
- Transects State boundaries; or
- May pose a substantial threat to either the public health, welfare, or the environment, or to regionally significant amounts of property. Regional contingency plans (RCPs) specify detailed criteria for activation of RRTs.

An RRT may also be activated during any discharge or release by an oral request from either the OSC or an RRT representative to the chairman of the team. This request must subsequently be confirmed in writing. During a prolonged removal action, the RRT may not need to be activated or may need to be activated only in a limited sense, or may need to have available only those member agencies of the RRT that are directly affected or can provide direct response assistance. When an RRT is activated, affected States may participate in all RRT deliberations. State government representatives on the RRT have the same status as any Federal member of the RRT. The RRT can be deactivated when the incident-specific RRT chairman determines that the OSC no longer requires RRT assistance. A complete description of the RRT appears in §300.115 of the NCP.

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Environmental Response Team

The ERT is a component of the Office of Emergency and Remedial Response (OERR) and maintains a 24-hour response capability consisting of support personnel specializing in all aspects of hazardous substance response. ERT personnel can advise and provide support to OSCs regarding:

- Hazard evaluation;
- Risk assessment;
- Multimedia sampling and analysis;
- On-site health and safety plans;
- Cleanup techniques and priorities;
- Water supply decontamination and protection;
- Application of dispersants;
- Environmental assessment;
- Degree of cleanup required; and
- Disposal of contaminated material.

In addition, the ERT developed the Computer Assisted Response Technology Selector (CARTS), an expert system that assists OSCs in determining the best treatment technology for a given type of hazardous waste. The system guides the user through a series of questions designed to elicit the specific chemical characteristics of the waste to be treated. Based on these data, CARTS provides information on the types of treatment technologies that are appropriate for the waste to be treated.

The authority to activate the ERT rests with the appropriate Regional Coordinator. When an OSC determines that ERT assistance is necessary, the OSC should call the Regional Coordinator during duty hours or, during non-duty hours, the ERT representative at the 24-hour response number ((908) 321-6660). Upon activation, the appropriate ERT personnel and resources will be dispatched to operate under the direct operational control of the OSC.

Radiological Emergency Response Teams

RERTs have been established to provide response and support for incidents or sites containing radiological hazards. These teams can provide on-site support, including mobile monitoring laboratories for field analysis of samples and fixed laboratories for radiochemical sampling and analysis. Requests for support from the RERTs may be made 24 hours a day via the National Response Center or directly to the Radiological Response Coordinator in EPA's Office of Radiation and Indoor Air (ORIA) at (202) 233-9360.

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Special Teams

The NCP identifies the following additional Federal resources for response:

- *The National Strike Force (NSF)* is a special team established by the USCG, including the three USCG Strike Teams, the Public Information Assist Team (PIAT), and the National Strike Force Coordination Center (NSFCC). The NSF is available to assist OSCs/RPMs in their preparedness and response duties. The three USCG Strike Teams (located on the Atlantic, Pacific, and Gulf coasts) provide trained personnel and specialized equipment to assist the OSC in training for spill response, stabilizing and containing the spill, and in monitoring or directing the response actions of the responsible parties and/or contractors. The OSC has a specific team designated for initial contact and may contact that team directly for any assistance. OSCs may request Strike Team assistance from the Commanding Officer of the appropriate team, the USCG member of the RRT, the appropriate USCG Area Commander, or the Commandant of the USCG through the NRC.
- *Scientific Support Coordinators (SSCs)* are available at the request of the OSC to assist with responses to releases of hazardous substances, pollutants, or contaminants, as well as with the development of Regional and local contingency plans. Generally, the National Oceanic and Atmospheric Administration (NOAA) provides SSCs in coastal and marine areas, while EPA's Environmental Response Team provides them in inland regions. To receive scientific support, the OSC should contact the SSC directly. If an OSC does not know the name of the SSC assigned to his or her Region for coastal waters, the OSC should contact NOAA by writing to NOAA/HMRD, 7600 Sand Point Way NE, Seattle, Washington 98115 or by calling (206) 526-6317.

During a response action, the SSC serves under the direction of the OSC and is responsible for providing scientific support for operational decisions and for coordinating on-scene scientific activity. Depending upon the nature of the incident, the SSC can provide certain specialized expertise; work as a liaison to government agencies, universities, community representatives, and industry; and compile information pertinent both to assessing the potential hazards of releases and to developing response strategies. At the OSC's request, the SSC will serve as the principal liaison for scientific information and will attempt to reach a consensus on scientific issues while ensuring that differing opinions are communicated to the OSC.

- *The USCG Public Information Assistance Team and the EPA Public Affairs Assistance Team* are made available through the NRC to assist OSCs and Regional Offices in meeting demands for public information and participation.

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Environmental Protection Agency

Enforcement Staff

All EPA Regions have technical enforcement staff to undertake or assist with enforcement activities. Regional technical enforcement staff consist of personnel with scientific, accounting, document management, and legal expertise who work with OSCs to ensure that Fund-financed responses meet both program objectives and legal requirements. Regional technical enforcement staff are generally organized in one of two ways:

- As a comprehensive enforcement section that manages all enforcement activities for both the removal and remedial programs; or
- As separate enforcement units specializing in certain tasks such as PRP searches, civil investigations, and cost documentation.

OSCs need to coordinate with Regional technical enforcement staff to ensure that enforcement issues have been thoroughly investigated, documented, and resolved.

The Regional Administrator (RA) issues the Administrative Orders that compel/negotiate with PRP response. In addition, the RA or the RA's designee must indicate approval of all Fund-financed removal actions up to \$6 million by signing the Action Memorandum (this may occur after-the-fact for removal actions initiated under the OSC's \$200,000 authority). The Action Memorandum authorizes the use of CERCLA funds for the proposed removal action, statutory exemption request, or a change in the scope of work. The Action Memorandum also has an addendum to record enforcement activities and may be used for enforcement purposes without obligating funds. Upon approval, Action Memoranda are placed in the administrative record file.

The ORC has on staff attorneys for each Region who provide litigation support, usually for both the removal and remedial programs. ORC attorneys are particularly involved in the following activities:

- Negotiating and reaching settlements;
- Drafting Administrative Orders; and
- Reviewing site documents for sufficiency of enforcement information.

The OSC should involve ORC in removal enforcement activities as soon as possible. This involvement is important because ORC can assist in developing enforceable Administrative Orders and EPA's cost-recovery case. ORC may also be able to assist in the identification of PRPs and facilitate other aspects of the removal enforcement process. If a removal action is to be conducted at a site with a remedial action already underway, the OSC should consult ORC before beginning a PRP search in order to avoid duplication of effort. More detailed information on enforcement activities can be found in the *Superfund Removal Procedures Removal Enforcement Guidance for On-Scene Coordinators* [4].

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Public Participation Staff

The OSC works with the Community Relations Coordinator (CRC) and the Administrative Record Coordinator (ARC), when possible, to design and implement public participation activities during a removal action. Additional resources, including other EPA Regional personnel, State or local government representatives, and contractor support, are available to assist the OSC with public participation activities:

- *CRCs* serve as the OSC's primary resource for coordinating and monitoring contractor support. The CRC may conduct or oversee support activities such as preparing a community relations plan and fact sheets, conducting community interviews, and maintaining an information repository for the site.
- *ARCs* organize information for the administrative record file according to the Regional file structure. The ARC may provide site file materials from which to compile the record file, assist in compiling the record file to meet the timing requirements established by the NCP, and help identify materials for the information repository.
- *Regional public affairs staff* provide support to the OSC in media relations tasks, such as processing information requests from the media or acting as an Agency spokesperson.
- *State or local governments* may assist or, in some situations, take the lead for public participation activities and are particularly helpful in situations where immediate support is necessary and Regional staff are not available.
- *Regional removal enforcement staff* support the establishment or maintenance of the information repository and have many of the site documents necessary for inclusion in the repository. ORC must consult with the OSC regarding the contents of the administrative record file prior to documents being made publicly available. The USCG Public Information Assist Team is available to assist OSCs in the demand for public information; i.e., the preparation of public information materials and press releases. Contractor support may be used to assist in developing the community relations plans, establishing the information repository, and preparing written responses to comments.

The OSC coordinates the use of these public participation resources and is responsible for identifying the roles and responsibilities of each staff member and for communicating information about the community and public participation strategy to the staff. More detailed information can be found in the *Superfund Removal Procedures Public Participation Guidance for On-Scene Coordinators: Community Relations and the Administrative Record* [9].

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Remedial Project Managers (RPMs)

In certain situations (e.g., when a removal action is required during a remedial response at an NPL site), the RPM may assume some or all of the responsibilities of the OSC. In all instances, however, the removal action must be in compliance with all statutory and regulatory provisions that guide removal actions. The OSC and RPM must coordinate with each other so that the removal action that is chosen is consistent, to the extent practicable, with long-term actions at those sites. The OSC and RPM should work together to identify potential near-term threats and to determine the extent to which the removal action will address all surface hazardous substances at the site. With the increased emphasis on using alternative technologies and the current restrictions on land disposal, remedial actions may often include on-site treatment if surface contamination is extensive. The Region is responsible for establishing the appropriate coordination procedures between the removal and remedial programs. Regional Decision Teams (RDTs), a concept developed under the Superfund Accelerated Cleanup Model (SACM), are designed to ensure effective coordination and integration of the different Superfund program authorities, expertise, and resources, and may be useful to OSCs in their efforts to coordinate with RPMs and the remedial program [10]. The only situation where it may not be feasible to consider how a proposed removal action relates to the long-term remedy is in an emergency. In such cases, response personnel may need to take whatever immediate measures necessary to protect public health, welfare, and the environment [11].

Contract Resources

OSCs have a variety of contracts available to assist them in conducting removal actions, such as:

- Emergency and Rapid Response Services (ERRS) contracts;
- Site-specific contracts;
- Superfund Technical Assessment and Response Team (START) contracts;
- National Contract Laboratory Program (NCLP); and
- Technical Enforcement Services (TES) contracts.

Each of these contract resources is described briefly below. Methods of procuring these services are described later in this guidance.

Emergency and Rapid Response Services

The ERRS contracts, which are the next generation of the Emergency Response Cleanup Services (ERCS) contracts, are EPA's primary contract mechanism for conducting emergency, time-critical, and non-time-critical removal actions. ERRS contracts provide rapid cleanup support to the Superfund program in containing, recovering, or disposing of hazardous substances (e.g., drum removal and lagoon drawdowns) and in sample analysis and site restoration. ERRS contracts provide expeditious response (i.e., within hours or days) and should be used at NPL and non-NPL sites requiring rapid response. These contracts provide

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the necessary personnel, equipment, and cleanup services. Unlike ERCS contracts and consistent with the implementation of SACM, ERRS contracts have the flexibility to also be used for rapid remedial response activities [12].

Site-Specific Contracts

A key component of the removal response strategy is site-specific contracting. Site-specific contracts are desirable because they promote competition and should always be considered in non-emergency situations. The following four factors should be weighed when contemplating the use of a site-specific contract:

- *Lead time.* Generally, a site-specific contract will take about four months to compete and is, therefore, not appropriate for many time-critical actions. However, a significant proportion of removal actions, including most of those involving an alternative technology, have sufficient lead time or will last long enough so that some portion of the work can be performed through a site-specific contract.
- *Cost.* The larger the action, the greater the potential for savings if a site-specific contract is used. Actions costing more than \$2 million should generally have some component of the work done on a site-specific basis.
- *Complexity.* Removal actions or their components that are relatively straightforward and uncomplicated are the best candidates for site-specific contracting. Sites that involve variable conditions or poorly-defined situations generally require more flexibility in their approach than is allowed for in the statement of work of a site-specific contract.
- *Management.* A response action performed with a site-specific contract requires significantly more preparation and management than the same action using an existing ERRS contract. Consideration must be given to the tradeoff between the dollar savings realized by the site-specific contract and the staff time involved in its preparation and management.

The OSC is responsible for writing the scope of work, organizing any necessary technical evaluation of offerers, and serving as Project Officer for the site-specific contract. The Contract Officer is responsible for managing the advertisement, bid review, negotiations, and actual award of the contract. To help expedite the process of soliciting and reviewing bids for site-specific contracts, EPA is beginning to create bidding pools of contractors qualified to use specific available and innovative alternative technologies. Technologies classified as emerging alternative technologies are not included in this program. This program is known as the Pre-Qualified Offerers Procurement Strategy (PQOPS). The two pools that have been established are: (1) Transportable Incineration System; and (2) Fixation/Solidification System. Under PQOPS, contractors will be able to submit their technical qualifications for any of the pools every three months.

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Superfund Technical Assessment and Response Team

In 1990, EPA issued its long-term contracting strategy for the Superfund program [13]. One of the contracts developed under this strategy was the joint Field Investigation Team/Technical Assistance Team (FIT/TAT) contract, now referred to as the Superfund Technical Assessment and Response Team contract. The START contract provides technical support capabilities for both the removal and site assessment programs. Tasks typically performed under these contracts include sampling, sample analyses, process audits/inspections, and contingency planning. Under the START contracts, technical support is provided by fully trained, multi-disciplinary teams that may include personnel such as engineers, technicians, geologists, toxicologists, biologists, and chemists.

National Contract Laboratory Program

The NCLP provides a national system of chemical analytical laboratories to augment EPA in-house support for response actions. The program includes routine analytical services for organic and inorganic compounds in standard matrices; routine analytical services for dioxin; high-hazard sample preparation prior to laboratory analysis; and special analytical services consisting of non-standardized analyses for organic and inorganic compounds in a variety of matrices. The OSC can access the NCLP through the Regional Sample Control Center (RSCC) official designated by each Regional Office.

The NCLP has also developed an analytical service designed to provide rapid turnaround of data from the analysis of water, soil/solid, oil/oily, and wipe samples. This quick turnaround method (QTM) analytical service, with a turnaround requirement of 48 hours (72 if more than three fractional analyses are requested), produces data of known and documented quality. Data produced from these analytical methods can be used whenever decisions do not require that the identity of target compounds be confirmed or that quantitative measures be precise. Access to the QTM CLP analytical service is typically accomplished through an authorized requestor, such as the RSCC coordinator, or through a Regional emergency response authorized requestor.

Technical Enforcement Services

Technical Enforcement Services contracts provide technical and management support to EPA Headquarters and Regional Offices in the enforcement of CERCLA and the NCP. Tasks under these contracts include conducting PRP searches, assisting in field oversight, and compiling the administrative record and cost documentation. The use of open-ended TES work assignments allows for limited PRP research to be conducted while the official paperwork is being processed.

Other Federal Agencies

Section 300.175 of the NCP describes the participation of Federal agencies other than EPA in Superfund response actions. These roles and responsibilities are summarized in Exhibit 1.

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The USCG and the Agency for Toxic Substances and Disease Registry (ATSDR) have special responsibilities at non-Federal facilities. EPA has negotiated Memoranda of Understanding (MOUs) with both the USCG and ATSDR. Each MOU sets forth the role each agency will play in Fund-financed removal actions and outlines the administrative procedures for participation and compensation of these agencies.

The OSC is responsible for identifying whether technical assistance is needed from another agency and for making arrangements for that assistance. OSCs may contact appropriate Regional Coordinators for assistance in making initial contact with and arranging for the involvement of the pertinent Federal agency. In addition, OSCs are responsible for initiating and processing any site-specific interagency agreements necessary for reimbursing Federal agency participation.

For agencies that have executed an MOU with EPA, OSCs should implement the administrative procedures set forth in the MOU. In other cases, OSCs should understand the two general mechanisms for funding the response-related activities of other Federal agencies: the agency's Superfund budget and an IAG. The nature of the agency's involvement will determine the compensation mechanism. For example, if the service provided is defined as an ongoing activity for which the other agency has received a Superfund budget, no further transfer of funds will occur. However, if the service involves site-specific response actions, the agency typically will receive reimbursement through an IAG.

USCG

An MOU between EPA and USCG establishes policies and procedures for USCG use of the CERCLA Trust Fund for costs incurred as part of Superfund response actions. There are two categories of costs that may be incurred under the Trust Fund: vendor costs and non-vendor costs. Vendor costs are contractor costs incurred during the course of a response. Contractor support is arranged through existing USCG and/or EPA contractual mechanisms as described in the MOU. All processing of obligating documents and payment of invoices is handled by EPA. Such documents should be sent to Research Triangle Park at: U.S. EPA, Office of Administration and Resources Management (MD-32), Attn: Financial Management Officer, Research Triangle Park, NC 27711.

EXHIBIT 1.**Roles of Other Federal Agencies at Non-Federal Facility Sites****Department of Agriculture
(USDA)**

- Provides expertise in managing agricultural, forest, and wilderness areas.
- *The Forest Service* has personnel, laboratory, and field capability to measure, evaluate, monitor, and control as needed, releases of pesticides and other hazardous substances on lands under its jurisdiction.
- *The Soil Conservation Service (SCS)* estimates effects of pollutants on soil and their movements over and through soil.
- *The Agriculture Research Service (ARS)* has the capabilities to regulate and provide training for employees exposed to biological, chemical, radiological, and industrial hazards.
- *The Animal and Plant Health Inspection Service (APHIS)* can respond in an emergency to regulate movement of diseased or infected organisms to prevent the spread and contamination of nonaffected areas.
- *The Food Safety and Inspection Service (FSIS)* works with other Federal and State agencies to establish acceptability for slaughter of exposed or potentially exposed animals and their products. In addition, FSIS manages the Federal Radiological Emergency Response Program.

**Department of Commerce
(DOC)**

- *The National Oceanographic and Atmospheric Administration (NOAA)* provides scientific expertise on living marine resources and their habitats, including endangered species and marine mammals. NOAA also coordinates scientific support for responses and contingency planning in coastal and marine areas, including: assessments of the hazards that may be involved, predictions of movement, dispersion of discharged oil and released hazardous substances through trajectory modeling, and information on the sensitivity of coastal environments to oil discharges. In addition, NOAA provides information on actual and predicted meteorological, hydrologic, ice, and oceanographic conditions for marine, coastal, and inland waters. Finally, NOAA furnishes charts and maps, including tide and circulation information for coastal and territorial waters and for the Great Lakes.

**Department of Defense
(DOD)**

- Takes all action necessary with respect to releases where either the release is on, or the sole source of the release is from, any facility or vessel under the jurisdiction, custody, or control of DOD.
- May provide assistance to other Federal agencies on request.

EXHIBIT 1 (continued). Roles of Other Federal Agencies at Non-Federal Facility Sites**DOD (continued)**

- *The United States Army Corps of Engineers* has specialized equipment and personnel for maintaining navigation channels, removing navigation obstructions, accomplishing structural repairs, and performing maintenance to hydropower electric generating equipment. The Corps also can provide design services, perform construction, and provide contract administration services for other Federal agencies and States.
- *The United States Navy Supervisor of Salvage (SUPSALV)* is the branch of service within DOD most knowledgeable and experienced in ship salvage, shipboard damage control, and diving. The USN has an extensive array of specialized equipment and personnel available for use in these areas as well as specialized containment, collection, and removal equipment specifically designed for salvage-related and open sea pollution incidents. Also, upon request of the OSC, locally deployed USN oil spill equipment may be provided. This equipment is available on a reimbursable basis to Federal agencies upon request when commercial equipment is not available.

**Department of Energy
(DOE)**

- Provides advice to OSCs when assistance is required in identifying the source and extent of radioactive releases, and in the removal and disposal of radioactive contamination.

**Department of Health and
Human Services
(HHS)**

- Assists with the assessment preservation, and protection of human health and helps ensure the availability of essential human services. Provides technical and nontechnical assistance in the form of advice, guidance, and resources to other federal agencies as well as state and local governments.
- *The U.S. Public Health Service* contains two sources of information that provide the primary response to a hazardous materials emergency: The Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control (CDC). Both ATSDR and CDC have a 24-hour emergency response capability wherein scientific and technical personnel are available to provide technical assistance to the lead federal agency and state and local response agencies on human health threat assessment and analysis, and exposure prevention and mitigation.
- *Other Public Health Service Agencies* involved in support during hazardous materials incidents either directly or through ATSDR/CDC include the Food and Drug Administration, the Health Resources and Services Administration, the Indian Health Service, and the National Institutes of Health.

EXHIBIT 1 (continued). Roles of Other Federal Agencies at Non-Federal Facility Sites

- | | |
|---|---|
| HHS (continued) | <ul style="list-style-type: none"> • <i>The National Institutes for Environmental Health Sciences (NIEHS)</i> assists in training and educating workers engaged in activities related to hazardous waste removal, containment, or emergency response. |
| Department of the Interior (DOI) | <ul style="list-style-type: none"> • DOI should be contacted through Regional Environmental Officers, who are the designated members of RRTs. DOI land managers have jurisdiction over the national park system, national wildlife refuges, and fish hatcheries, public land, and certain water projects in western States. • In addition, bureaus and offices have relevant expertise as follows: <ul style="list-style-type: none"> † <i>Fish and Wildlife Service:</i> fish and wildlife, including endangered and threatened species, migratory birds, certain marine mammals, habitats, resource contaminants and laboratory research facilities. † <i>The National Biological Survey:</i> biological resource management, inventories, monitors, and reports on the status and trends in the Nation's biotic resources, and transfers the information gained in research and monitoring to resource managers and others concerned with the care, use, and conservation of the Nation's natural resources. † <i>Geological Survey:</i> geology, hydrology (ground water and surface), and natural hazards. † <i>Bureau of Land Management:</i> minerals, soils, vegetation, wildlife, habitat, archaeology, wilderness, and hazardous materials. † <i>Minerals Management Service:</i> manned facilities for Outer Continental Shelf oversight. † <i>Bureau of Mines:</i> analysis and identification of inorganic hazardous substances. † <i>Office of Surface Mining:</i> coal mine wastes and land reclamation. † <i>National Park Service:</i> biological and general natural resources. † <i>Bureau of Reclamation:</i> operation and maintenance of water projects in the West, engineering and hydrology, and reservoirs. |

EXHIBIT 1 (continued). Roles of Other Federal Agencies at Non-Federal Facility Sites

DOI (continued)	† <i>Bureau of Indian Affairs:</i> coordination of activities affecting Indian lands. † <i>Office of Territorial Affairs:</i> assistance in implementing NCP in American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.
Department of Justice (DOJ)	• Provides expert advice on complicated legal questions arising from discharges or releases and Federal agency responses. In addition, the DOJ represents the Federal government in litigation.
Department of Labor (DOL)	• Has the authority to conduct safety and health inspections of hazardous waste sites to assure that employees are being protected and to determine if the site is in compliance with regulations. • <i>The Occupational Safety and Health Administration (OSHA)</i> provides the OSC with advice, guidance, and assistance regarding hazards to persons involved in removal or control of oil discharges and hazardous substance releases, and in the precautions necessary to prevent hazards to their health and safety. OSHA and the States operating OSHA-approved State plans have the responsibility for assuring employee safety and health during response activities. • In cooperation with EPA and the NRT, OSHA has established a policy for handling occupational safety and health problems that may arise. Under this policy, OSHA can provide technical assistance to EPA, any other lead agency, or the contractor. Technical assistance may include review of site safety plans, review of site work practices, assistance with exposure monitoring, and help with other questions that arise about compliance with OSHA standards. • OSHA is also ready to respond to inspection requests from EPA or another lead agency, and will act if there are accidents or employee complaints about unsafe or unhealthful work conditions during response activities, as it does in other industries. OSHA reserves the right to take any other actions necessary to assure that employees are properly protected during such response activities. Any questions about occupational safety and health at response sites should be referred to the OSHA Regional Office.

EXHIBIT 1 (continued). Roles of Other Federal Agencies at Non-Federal Facility Sites

Department of Transportation (DOT)

- Provides expertise on all modes of transporting oil and hazardous substances.
- *The United States Coast Guard (USCG)* offers expertise in domestic/international fields of port safety and security, maritime law enforcement, ship navigation and construction, and the operation and safety of vessels and marine facilities. The USCG also maintains continuously manned facilities that can be used for command, control, and surveillance of oil discharges and hazardous substances releases occurring in the coastal zone. The USCG provides predesignated OSCs for the coastal zone.
- In accordance with Executive Order 12580, the USCG is authorized to respond to certain releases or threatened releases involving the coastal zone, Great Lakes, ports, and harbors. Additionally, E.O. 12580 and section 300.110 of the NCP require that the USCG provide a representative to the NRT who shall serve as the vice chairman except during periods when the NRT is activated for response actions. When the NRT is activated, the USCG representative will serve as chairman if the discharge or release occurs in the coastal zone areas.
- *The Research and Special Programs Administration* offers expertise in the requirements for packaging, handling and transporting regulated hazardous materials.

Department of State (DOS)

- Leads the development of joint international contingency plans. Helps to coordinate international responses when discharges or releases cross international boundaries or involve foreign flag vessels. Coordinates requests for assistance from foreign governments and U.S. proposals for conducting research at incidents that occur in waters of other countries.

Federal Emergency Management Agency (FEMA)

- Provides guidance, policy and program advice, and technical assistance in hazardous materials and radiological emergency preparedness activities. During a response, FEMA provides advice and assistance to the lead agency on coordinating relocation assistance and mitigation efforts with other Federal agencies, State and local governments, and the private sector. FEMA may enter into a contract or cooperative agreement with the appropriate State or political subdivision in order to implement relocation assistance.
- In the event of a hazardous materials incident at a major disaster or emergency declared by the President, the lead agency shall coordinate hazardous materials response with the Federal Coordinating Officer (FCO) appointed by the President.

EXHIBIT 1 (continued). Roles of Other Federal Agencies at Non-Federal Facility Sites

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|---------------------------------------|--|
| Nuclear Regulatory Commission | <ul style="list-style-type: none"> • Responds to releases of radioactive materials by its licensees, in accordance with the Nuclear Regulatory Commission Incident Response Plan. In addition, the Nuclear Regulatory Commission provides advice to the OSC when assistance is required in identifying the source and character of other hazardous substance releases where the Nuclear Regulatory Commission has licensing authority for activities utilizing radioactive materials. |
| National Response Center (NRC) | <ul style="list-style-type: none"> • Acts as the single Federal Point of contact for all pollution incident reporting and as the NRT communications center. The NRC tracks medium, major, and potentially major spills and provides incident summaries to all NRT members and other interested parties. |

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Non-vendor costs are funded through one of two types of IAGs: site-specific IAGs and ongoing responsibilities IAGs. Site-specific IAGs cover out-of-pocket expenses incurred by the USCG during response. Such site-specific costs include, but are not limited to:

- Travel and per diem for military and civilian personnel;
- Salary costs for military and civilian personnel including civilian overtime costs;
- Fuel for USCG vessels, aircraft, or vehicles used in support of a response activity; and
- Replacement or repair costs for equipment owned by the USCG.

In situations where the USCG provides assistance in EPA-lead response actions, the Regions are responsible for executing site-specific IAGs. For USCG-lead responses, EPA Headquarters will process the IAGs. EPA and USCG Headquarters use ongoing responsibilities IAGs to transfer funds annually from the CERCLA Trust Fund to the USCG. These funds are to cover general costs incurred by the USCG for maintaining response capabilities, such as training and development of guidance. These capabilities also include conducting preliminary assessments to establish whether an incident meets the CERCLA removal action criteria, monitoring non-Federal removal actions, conducting medical monitoring, maintaining information systems and the National Response Center, and conducting USCG enforcement activities.

ATSDR

Pursuant to CERCLA and Executive Order 12580, ATSDR has responsibility for conducting public health studies relating to the release of hazardous substances. The OSC may request ATSDR assistance by contacting the Region's ATSDR representative at any time during a removal action if the release appears to present an imminent and substantial danger to public health or welfare. ATSDR may perform on-site health assessments to determine the potential nature and magnitude of any imminent health threat and may issue public health advice. The OSC should attach final ATSDR Health Advisories, health consultation memoranda, or other health advice as an appendix to the Threats section of the Action Memorandum (see the *Superfund Removal Procedures Action Memorandum Guidance*) [2]. ATSDR also may provide assistance with worker health and safety issues through an ATSDR IAG with the Occupational Safety and Health Administration (OSHA) and/or the National Institute of Occupational Safety and Health (NIOSH).

Most ATSDR site-specific activities and all general program activities are funded through the regular Superfund budget process. Funds for these activities are transferred via an annual ongoing responsibilities IAG. Only large-scale, long-term, epidemiological site studies would require the use of a site-specific IAG.

Site-Specific IAG Procedures

Regions will develop and negotiate terms and award IAGs for site-specific response actions undertaken by other Federal agencies at EPA-lead removal actions. For these IAGs, Regional personnel should use the following procedures:

- The Regional Program Office defines the scope of work to be performed, outlines the responsibilities of each agency, determines the performance period, identifies primary contacts in each agency, names contractors and the dollar amounts of any contracts, if applicable, and determines the overall reporting, invoicing, and amendment requirements.
- The Regional Program Office prepares four copies of the IAG/Amendment (EPA Form 1610-1) and prepares the commitment notice and the transmittal/decision memorandum.
- The Regional Management Division provides financial information for the commitment notice (e.g., document control number, account number, appropriation number), records the commitment of funds in the Document Control Register, and forwards a copy of the commitment notice to the Servicing Finance Officer in Cincinnati, Ohio.
- The Regional IAG Administration staff reviews the IAG, obtains IAG identification numbers from the Grants Administration Branch at EPA Headquarters, obtains the Regional Administrator's signature, and then sends the signed IAG to the other agency for signature.
- After the other agency returns the IAG, the Regional IAG Administration staff distributes the executed IAG to: (1) The Regional Management Division finance staff; (2) Headquarters Financial Reports and Analysis Branch; (3) Headquarters Budget Division; (4) Headquarters Grants Administration Division, Grants Information and Analysis Branch; and (5) the Financial Management Center in Cincinnati, Ohio.

IAGs for USCG-lead removal actions will be prepared and funded by EPA Headquarters. Within 24 hours of the initiation of a removal action, USCG's National Pollution Fund Center (NPFC) will provide information (i.e., an endangerment determination, POLREP, or Action Memorandum) and a cost estimate on the incident to the appropriate Regional Coordinator. In return, the Regional Coordinator will provide an EPA Site/Spill Identification (SSID) number to NPFC to link the USCG and EPA records, tracking systems, and financial systems.

The USCG OSC will maintain each incident's case file. For each removal action, the case file contains documentation of all resources used and financial transactions associated with the incident.

The USCG will provide copies of POLREPs to the appropriate Regional Coordinator to provide removal and fund obligation data. The initial POLREP will be provided within 72 hours of initiating the removal action. Progress POLREPs should be provided on a routine

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basis. No later than two weeks after completion of each removal action, the USCG will forward a final POLREP to the appropriate EPA Regional Coordinator for inclusion in EPA's case file.

The Region should contact the appropriate Regional Coordinator for assistance if other types of IAGs are needed.

State and Local Governments

Because State and local public safety organizations are often the first government representatives at the scene of a discharge or release, they are expected to initiate public safety measures that are necessary to protect public health and welfare and are consistent with the NCP. In addition, these public safety organizations are responsible for directing evacuations pursuant to existing State or local procedures. States are also responsible for identifying State ARARs. For facilities not addressed under CERCLA, States are encouraged to undertake their own response actions or to use their authorities to compel/negotiate with PRPs to undertake actions.

Additionally, under §300.180 of the NCP, each State governor is requested to designate one State office/representative to represent the State on the appropriate RRT and to assist in coordinating response efforts. The governor also should designate a lead agency that will direct State-lead response operations, designate the OSC for State-lead response actions, designate Support Agency Coordinators for Federal-lead response actions, and coordinate and communicate with any other State agencies, as appropriate. Local governments are invited to participate in activities on the appropriate RRT.

Furthermore, States may enter into Superfund State Contracts (SSCs) or CAs pursuant to section 104 of CERCLA, as amended, to undertake Fund-financed response actions when the Federal government determines that the State has the capability. Historically, EPA has not used CAs for removal actions. With a greater emphasis on the use of removal actions, EPA has determined that such agreements may be appropriate. Because there must be sufficient time to complete a CA before a State may take the lead, generally only non-time-critical removal actions will be eligible for State-lead activities, although EPA is currently investigating alternative mechanisms that may permit emergency or time-critical activities to be funded in the future. CAs between EPA and a State must be developed in accordance with the procedures set forth in 40 CFR Part 35, Subpart O. Before any Fund-financed removal activities are initiated at a site, State and local governments may be required to ensure the provision of post-removal site control procedures until either a permanent remedy is implemented or no further site control measures are needed [14].

SSCs are binding agreements between EPA and the State to ensure that the State meets its cost-sharing obligations, complies with the final rule on procedures for planning and implementing off-site response actions (40 CFR Part 300), and performs any necessary post-removal site control activities. States are required to share in the cost of a removal action if the removal action is conducted at an NPL site that was publicly operated at the time of disposal or release of hazardous substances therein *and* a remedial action is ultimately undertaken at the site. In these situations, States are required to pay 50 percent of removal action costs at the time of the remedial action.

PROCEDURES FOR MANAGING A REMOVAL ACTION

As the managers of Superfund removal actions, OSCs conduct removal activities and coordinate the activities of EPA personnel, other Federal and State agencies, PRPs, and contractors. Key response management activities undertaken by OSCs and described in this section include:

- Access agreements;
- Worker and visitor health and safety;
- Contractor procurement and oversight;
- Cost management;
- Enforcement;
- Public participation;
- Identification and compliance with ARARs; and
- Reporting and recordkeeping.

Exhibit 2 provides a checklist to assist OSCs in ensuring that appropriate response management activities are addressed at the appropriate stages of a removal action.

Access Agreements

The State is responsible for arranging access to a site, but the OSC may also be involved in site-access agreements. Typically, the State will approach the property owner and the final access agreement will be drawn up either between the landowner and the State or directly between the landowner and EPA or another Federal lead-agency.

However, during site-access negotiations, the OSC does not have the authority: to agree orally or in writing to conditions of entry; to hold a PRP harmless for injuries or damages in return for site access; to agree that the property holder will not be held liable in return for site access; or to agree to compensate the owner. In addition, the OSC should not agree to a permanent time limitation on site access.

Property access agreements must be reviewed by ORC. The OSC should consult with Regional Counsel when the State has no legal authority to gain access, such as rights-of-way for public utilities, railroads, and Federal lands.

The OSC may encounter property owners who are uncooperative. Owners may refuse access to or through their property to the removal site or they may threaten removal personnel or interfere with removal actions. In these cases, the OSC should seek assistance from State and local authorities. If this assistance is unavailable or insufficient, the OSC may request through ORC a Federal court order to ensure access or to restrain the threatening party from interfering with removal activities. To obtain a Federal court order, the OSC should ask the Regional Counsel to arrange with Department of Justice (DOJ) attorneys to file a civil complaint in U.S. District Court. The court may dispatch U.S. Marshals to enforce the order and to protect removal personnel. Before Marshals can be dispatched, the OSC should ask EPA Headquarters to prepare a site-specific IAG to cover the cost of U.S. Marshal support.

EXHIBIT 2.

Response Management Checklist

The following checklist has been developed to assist OSCs in conducting removal actions and coordinating the activities of other response and support personnel. OSCs should ensure that the following activities are conducted at all removal sites when appropriate:*

Access Agreements

- ☐ Notify State to request access to the site.
- ☐ Oversee site access negotiations and agreements.
- ☐ Ensure ORC reviews all agreements (especially when State has no legal authority, such as on Federal lands).

Worker and Visitor Health and Safety

- ☐ Prepare written safety plan covering all phases of incident operations and identifying key personnel (update or modify plan as conditions change).
- ☐ Ensure workers and visitors are apprised of on-site hazards and provisions of the plan (all persons entering the site must certify that they have read the plan and understand its contents).
- ☐ Consult with OSHA on worker health and safety issues as needed.

Contractor Procurement and Oversight

- ☐ Prepare Procurement Request (PR) and Delivery Order (DO) for services.
- ☐ Notify Regional Financial Management Officer to enter accounting information.
- ☐ Issue completed DO to contractor Program Manager.
- ☐ Modify Statement of Work, completion date, or ceiling on PR/DO as needed during response.
- ☐ Monitor contractor work progress throughout removal action.

Cost Management [15]

- ☐ Prepare pre-response cost estimates prior to response start-up.
- ☐ Consistently document the following items:
 - Chronology of events and decisions
 - Site conditions
 - Movement of personnel and equipment
 - Contractor planned and authorized work compared to accomplishments
 - Contractor costs
 - Oversight costs where PRPs undertake action and the Administrative Order does not waive oversight costs.
- ☐ Ensure all costs incurred are allowable.

* The order of events is for illustrative purposes; some events may occur concurrently.

EXHIBIT 2 (continued). Response Management Checklist

Enforcement [4]

PRP Search, Identification, and Notification

- ☐ Document or photograph visual evidence linking PRPs to site, including drum labels, shipping records, and vehicle registration.
- ☐ Conduct oral inquiries with PRPs and other observers (e.g., public officials, reporters) at site.
- ☐ Initiate a title search.**
- ☐ Conduct off-site interviews.**
- ☐ Review relevant site records.**
- ☐ Notify PRPs of liability.

Preparation for Negotiation

- ☐ Notify State prior to negotiations or issuance of an Administrative Order.
- ☐ Establish the administrative record.
- ☐ Prepare signed Action Memorandum with enforcement addendum.

Community Relations [9]

- ☐ Designate an Agency spokesperson.
- ☐ Notify affected citizens, State and local officials, and civil defense/emergency management agencies.
- ☐ Contact Community Relations Coordinator to arrange for on-site support.
- ☐ Conduct community interviews for removal actions.
- ☐ Review/coordinate any news releases or statements made by participating agencies.
- ☐ Prepare community relations plan.
- ☐ Select materials for and establish information repository.
- ☐ Inform public of availability of the information repository.

** This activity should be conducted if time permits.

EXHIBIT 2 (continued). Response Management Checklist

Administrative Record [16]

- ☐ Establish administrative record file.
- ☐ Select documents to be included in the administrative record file.
- ☐ Publish public notice of administrative record availability.
- ☐ Make the administrative record publicly available.
- ☐ Provide public comment period on the EE/CA and supporting documentation of not less than 30 days for all non-time-critical removal actions, and a public comment period of not less than 30 days for time-critical removal actions, as appropriate. Prepare written response to comments, as applicable.
- ☐ Document compliance with community relations procedures in the administrative record file.
- ☐ Add relevant documents to the administrative record file.

ARARs [6,17]

- ☐ Identify potential ARARs triggered by site characteristics during the removal site evaluation phase.
- ☐ Contact State to assist in identifying State ARARs.
- ☐ Identify additional ARARs as potential actions are developed.

Reporting and Recordkeeping [5]

- ☐ Maintain log of all on-site activities.
- ☐ Prepare POLREPs throughout the removal action process.
- ☐ Prepare and submit final OSC report to NRT and/or RRT upon request.

Post-Removal Site Control (PRSC) [14]

- ☐ Obtain, prior to initiating a removal action, a commitment from the State, local government, or PRP to perform and fund PRSC actions. For emergencies, commitment may be obtained after initiation of removal action.
- ☐ Coordinate with Superfund remedial program if there is or may be remedial activities at the site.

PROCEDURES FOR MANAGING A REMOVAL ACTION

The cost for U.S. Marshals is covered under CERCLA and does count toward the statutory \$2 million limit on removal actions. Whenever such situations arise, the OSC should contact the appropriate Regional Coordinator for assistance.

Payments for Access/Indemnification

Generally, EPA will *not* pay property owners for rights-of-way or easements for property adjacent to the site or within the site boundaries. In cases where payment or indemnification of the property owner becomes an issue in arranging for site access, the issue should be referred to ORC or the appropriate Regional Coordinator for assistance. Under Delegation of Authority 14-30, signed September 13, 1987, OSCs must obtain advance concurrence from the Assistant Administrator of OSWER and the Office of General Counsel (OGC) when acquiring an interest in property (e.g., an easement or right-of-way required for an extended period of time).

Property Damage

Damage or contamination to land or property incurred during a response action may be reimbursable to the property owner by the Agency, particularly where the release was on the property of an innocent party. Generally, the OSC should attempt to restore the property to its pre-response condition (e.g., regrading and reseeding a temporary site access road). Where there is contamination, the OSC may arrange for disposal. In cases where property damage assessments are necessary to recommend fair compensation to the owner for all damages, the OSC should consult with ORC to determine the appropriate next step. If the amount or type of compensation becomes an issue, the OSC should continue consulting with the Regional Counsel or contact the appropriate Regional Coordinator. More detailed information can be found in the *Guidance on Compensation for Property Loss in Removal Actions* [18].

Worker and Visitor Health and Safety

Pursuant to section 126 of the Superfund Amendments and Reauthorization Act (SARA) and §300.150 of the NCP, response actions are subject to all applicable Federal, State, and local occupational safety and health laws. OSHA standards form the basis for the safety and health protection of workers involved in hazardous substance response activities. Where State occupational safety and health laws exist (currently 25 States/territories have such laws), these laws also may apply to response actions. In addition, the safety and health requirements of other Federal agencies may apply (e.g., DOT requirements for hazardous materials carriers). The requirements described below apply to Federal agencies and contractors involved in Fund-financed response actions and to PRPs when undertaking responses. If an accident occurs during a removal action, a removal action accident report (see Exhibit 3) must be completed and submitted to EPA. This form was developed to provide more detailed documentation of circumstances surrounding accidents during removal actions.

PROCEDURES FOR MANAGING A REMOVAL ACTION

EXHIBIT 3.

Information Required For A Removal Action Accident Report

1. Date and Time of Incident:
 Date of Report:
2. Site Name and Location:
 Report Prepared By:
3. OSC:
 Preparer's Phone No.:
4. Description of Incident:
5. Factors Leading Up to Incident:
6. Site Work Relating to Incident (OSC orders, foreman's orders):
7. Weather Conditions During Incident (temperature, humidity, wind direction and speed, precipitation):
- 8a. Injuries (person, role of person on-site, description of injury):
- 8b. Exposure (person exposed, substances involved, type of exposure -- inhalation, ingestion, dermal):
- 8c. Medical Treatment (paramedic, physician, hospital, length of stay, estimated cost):
9. Property Damage (owner, location, description of damages, estimated cost):
- 10a. Other Persons On-site:
- 10b. Other Person's Roles/Activities On-site on Day of Incident:

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Fund-Financed Response Actions

All Federal, State, and contractor personnel involved in Fund-financed response actions must comply with the lead agency's overall occupational safety and health policies and with a site-specific health and safety plan that is developed by the lead agency. EPA originally issued *Standard Operating Safety Guides (SOSG)* in 1988 to supplement the following: Chapter 9, "Hazardous Substance Responses," of EPA Order 1440, *Occupational Health and Safety Manual*; EPA Order 1440.2, *Health and Safety Requirements for Personnel Engaged in Field Activities*; and EPA Order 1440.3, *Respiratory Protection*. In addition, EPA, OSHA, USCG, and the National Institute of Occupational Safety and Health (NIOSH) have jointly developed the *Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities* [19] to provide general guidance for developing site-specific health and safety plans.

OSHA also has issued the Hazardous Waste Operations and Emergency Response (HAZWOPER) Final Rule (29 CFR 1910.120), which sets forth the Federal requirements for safety and health programs. In accordance with SARA section 126, EPA finalized standards identical to OSHA's worker protection standards. EPA's regulation applies to employees of State and local governments in States that do not have an approved State plan under section 18 of the Occupational Safety and Health Act of 1970. In June 1992, EPA revised the SOSG to ensure compliance with HAZWOPER [20]. EPA's guidance documents and OSHA's final rule form the basis for EPA's worker health and safety program for hazardous waste site activities. Each Regional Office also must develop standard safety procedures, consistent with appropriate OSHA and State requirements.

Because response activities are unique to each incident, standard procedures must often be adapted or modified to meet the incident-specific requirements. For this reason, a written site-specific health and safety plan (HASP) must be prepared for each incident. The HASP is different from the site-specific health and safety plan that is developed by the lead agency. The HASP is distributed and posted in the command post, preferably before removal operations begin at the site. If the HASP is not written and posted before on-site operations begin, it should be done as soon as possible thereafter. Under the HAZWOPER regulations, site health and safety plans must cover all phases of incident operations, identify key personnel, and be updated or modified as needed or as conditions change. As a minimum requirement, the HASP should include:

- Names of key personnel and health and safety contacts;
- A task/operation safety and health risk analysis, with an evaluation of hazardous substances present or expected to be present at the site and their chemical and physical properties;
- An employee training program for all equipment operators and general laborers who risk exposure to hazardous materials;
- A list of personal protective equipment to be used;

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- Medical surveillance requirements, including medical examinations at least once every 12 months for all employees who may be exposed to hazardous substances at or above the Permissible Exposure Limits for 30 days per year or more;
- The frequency and types of air monitoring, personnel monitoring, and sampling techniques;
- A site control program consisting of a site map, site work zones, buddy system, site communications, safe work practices, and identification of nearest medical assistance;
- Decontamination procedures, as contained in an emergency response plan that also addresses site security and controls, evacuation routes and procedures, emergency medical treatment and first aid, emergency alerting and response procedures, critique of response and follow-up, and personal protective equipment and emergency equipment;
- Site standard operating procedures;
- Contingency plan; and
- Confined space entry procedures.

OSCs are responsible for ensuring that workers and visitors are apprised of on-site hazards and the provisions of the HASP. The OSC should ensure that all individuals entering the site (e.g., EPA, other contractors, and the media) read the HASP and sign a form indicating they understand the plan.

The OSC should be aware of on-site health and safety activities and is responsible for monitoring Federal and contractor compliance with: EPA health and safety requirements; site health and safety requirements; and applicable Federal and State laws and regulations. However, OSCs are only directly responsible for their own staff. All contractors must meet the minimum OSHA requirements or be subject to penalty. Pursuant to NCP §300.150, each government agency and private employer is responsible for the health and safety of its own employees and for ensuring compliance with OSHA requirements, applicable State laws, and with EPA health and safety programs. EPA will not assume responsibility for other government or contractor personnel.

OSHA enforces compliance with Federal occupational safety and health regulations, and may conduct OSHA inspections at removal actions. EPA can determine discrepancies in the site-specific health and safety plan, but it is OSHA's responsibility to determine violations. Where State occupational safety and health laws exist, the State may conduct inspections. However, if the OSC discovers a safety violation, all site personnel and visitors should be informed of the violation. Should the infraction continue, the OSC may request OSHA or State occupational safety and health inspectors to review practices to ensure compliance.

Throughout the response action, OSHA is available to OSCs to provide advice on worker health and safety issues. When needed, the OSC may request NIOSH assistance in testing worker protection equipment and gathering information for guidance on safety issues. More

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detailed information can be found in *Integrated Health and Safety Program Standard Operating Practices for OSWER Field Activities* [21].

PRP Responses

The NCP requires PRPs to provide adequate health and safety measures for their workers when conducting Superfund response actions. PRPs must develop a site health and safety program that is consistent with all applicable Federal and State occupational safety and health laws. Workers entering the site must be apprised of site hazards and provisions of the safety and health program. PRPs are ultimately responsible for worker compliance with provisions of the site health and safety program.

The OSC, when monitoring PRP response actions, reviews the safety and health measures developed by the PRP and monitors compliance with these measures. The OSC also must report inadequate worker health and safety measures to the PRP's Project Manager/Coordinator or its designated health and safety representative. In cases where an OSHA violation has occurred, the OSC may request OSHA to conduct a health and safety inspection.

Contractor Procurement and Oversight

OSCs may procure emergency cleanup support from EPA's Emergency and Rapid Response Services (ERRS) contractors. OSCs should note that the ERRS contract is intended for cleanup activities, and may not be used for removal site evaluations, extent of contamination surveys, or broad planning activities. These restrictions on the use of ERRS contracts are necessary to avoid potential conflicts of interest or the appearance of conflicts of interest. ERT should be contacted to obtain these services.

Once Headquarters or the Region has approved a removal action, the Region can access the services of the appropriate ERRS contractor through issuance of a delivery order (DO) supported by a Procurement Request (PR). The PR is a document committing funds for a cleanup contractor, while a DO obligates the funds. Although a PR is generally prepared in advance of a DO, the immediacy of certain removal actions may require simultaneous processing of the DO and PR or a oral agreement followed by formal documentation.

A DO contains the following elements: standard specifications (e.g., accounting data, response time requirements); a statement of work (SOW); a ceiling amount; site-specific health, safety, and institutional requirements; and terms and conditions. The level of detail in the DO will vary according to the urgency of the removal action. For example, DOs for situations in which the OSC has limited time to assess the nature of the release (e.g., emergencies) may contain general descriptions of tasks. For less urgent removal actions, the OSC should prepare an SOW that has detailed descriptions of services, task schedules, and deliverables.

Responsibility for preparing, signing, and issuing DOs rests with OSCs who have Ordering Officer authority. For approved EPA-lead projects, Ordering Officers may obligate the

PROCEDURES FOR MANAGING A REMOVAL ACTION

government and issue DOs up to \$250,000. Obligations above that amount for EPA-lead projects, as well as DOs for USCG removal actions, require Contracting Officer approval.

General procedures for preparing, issuing, and modifying PRs and DOs are as follows:

- The PR is prepared and signed according to established Regional procedures. The accounting information on the PR must be identical to that on the DO. The commitment copy should be sent to Research Triangle Park (RTP) at: US EPA, Financial Management Division, (MD-32) Attn: Contracts Financial Operations, Research Triangle Park (RTP), NC 27711. The signed original should be sent to: US EPA, Procurement and Contracts Management Division (PCMD), Superfund Removal Procurement Section (3805F), 401 M Street, SW, Washington, DC 20460.
- The OSC/Ordering Officer should prepare the DO, except for the accounting information.
- Depending upon the procedures established in each Region, the Ordering Officer, Regional Financial Management Officer (FMO), or other designated staff will enter the accounting information. The designated individual should obtain a Regional Document Control Number (DCN) and an account number. During duty hours, these numbers will be available from the Financial Management Division. During non-duty hours, the Ordering Officer or FMO should follow established Regional procedures for obtaining these numbers. If the appropriation number and object class category are not preprinted on the DO, the Ordering Officer or FMO should also enter these numbers.
- Once the DO is complete, the Ordering Officer should issue it to the contractor's Project Manager/Coordinator or designee and should send the original signature copy to PCMD and the designated copy to RTP.
- During the response, the OSC/Ordering Officer may determine that a modification to the SOW, completion date, or ceiling is needed. The OSC/Ordering Officer is responsible for requesting a written modification from the PCMD Contracting Officer. Most requests can be handled by telephone. The OSC/Ordering Officer should prepare a new PR for the unobligated portion of the new total cost and forward it to the Regional FMO for approval. Within one day of approval, the Management Division should assign the appropriate account number and new DCN and send the commitment copy to RTP and the signed original to PCMD. The PCMD Contracting Officer then prepares, signs, and issues Standard Form 30, "Amendment of Solicitation Modification of Contract," to the ERRS contractor.

Once the DO is issued and the contractor begins work, the OSC is responsible for monitoring work progress. The contractor should submit to the OSC a separate invoice for each DO, and the OSC must certify each invoice and forward it expeditiously to RTP for payment.

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Emergency Site-Specific Contracts

Procedures for procuring emergency site-specific contracts, and controls on the use of these contracts, are as follows:

- In cases where emergency cleanup actions are needed immediately, the OSC must contact the ERRS contractor and request an earlier response time than has been pre-established for the contract as a whole. If the ERRS contractor cannot respond within the required time frame, the OSC may be authorized to select a contractor (either a private firm or a State or local government) that can begin work immediately.³
- If the ERRS contractor can respond at an earlier time that is acceptable to the OSC, the earlier time is documented on the DO and the earlier agreed-upon time becomes binding on the contractor for that one DO.
- No outside contracts (including letter contracts with State and local governments) may exceed \$10,000.
- The outside contracts must be used only until the ERRS contractor can arrive and take over the removal action.
- The OSC must document in a separate memorandum to the file the exact nature of the emergency and the necessity of awarding a separate contract.

National Contract Laboratory Program

OSCs requiring NCLP support should contact the Regional Sample Control Center (RSCC), which schedules all requests. The RSCC is located in each Region's Environmental Services Division (ESD). For emergency or time-critical removal actions, NCLP turnaround may not be quick enough. In these cases, laboratory analyses often are conducted by the ESD laboratories. In special situations requiring quick turnaround analyses over an extended period of time, the OSC should contact the appropriate Regional Coordinator to arrange for an analysis contract.

Oversight Activities

One of the most important and time-consuming roles for an OSC is overseeing cleanup contractors. Examples of oversight activities include:

- Preparing the Work Plan;
- Directing site work;

³ Only OSCs with a currently written "Delegation of Procurement Authority" from PCMD to act as a Contracting Officer may secure contractor services outside the existing agency contracts.

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- Monitoring project costs;
- Reviewing and certifying the Contractor Cost Report (EPA Form 1900-55), which outlines daily contractor services and associated costs;
- Monitoring contractor personnel and equipment daily to verify satisfactory completion of tasks within the Work Plan;
- Evaluating contractor performance; and
- Determining the overall project status.

In carrying out these oversight activities, OSCs may request support from START contractors. START contractors, however, may not assume the OSC's responsibilities for directing site activity, verifying satisfactory completion of work, or approving the Contractor Cost Report.

Compelling circumstances, such as another removal incident, may require the OSC to leave the site for more than 24 hours. Section 300.135(d) of the NCP authorizes the OSC to designate capable persons from Federal, State, and local agencies to act as OSC representatives to supervise response operations. START personnel, because of their non-governmental status, may not be designated OSC representatives.

The NCP and removal program policy dictate the following guidelines for, and limitations on, the designation and activities of OSC representatives:

- Federal employees — The preferred designee would be another Federal employee because such a designee would have the authority to *direct*, not merely oversee, contractors, to initiate activities involving expenditures of money, and to certify completion of work and costs. Examples of preferred designees include another Superfund OSC, a non-OSC Superfund employee, a non-Superfund employee from within the Region, an OSC or other employee from another Region, Headquarters personnel, or employees from another Federal agency such as USCG. Reassignment of staff from other duties, particularly those outside the program, Region, or Agency, may not allow the necessary flexibility. Moreover, designation of a Federal employee who does not have adequate training in program procedures and response operations may adversely affect the quality of the response.
- State/local staff — The NCP precludes State and local officials from taking any actions involving expenditures of Trust Fund monies, unless an appropriate contract or cooperative agreement has been executed. In practice, this means that State and local representatives may supervise implementation of the OSC's work orders but may not provide new instructions.
- START — START personnel may not serve as OSC designees; they may, however, continue to provide support services at the site and monitor cleanup contractor performance in the absence of the OSC.

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Because of the practical difficulties in designating an OSC representative who can assume full on-site responsibilities, OSCs are discouraged from leaving the site except in very limited circumstances. Examples of circumstances where the OSC might leave the site are when EPA has a contract with a State or local government to provide water hookups or when the site clearly has "insignificant" activity (e.g., a pump running).

Under the ERRS contracts, OSCs must complete the following requirements in order to be qualified to provide ERRS project oversight:

- Contract administration class offered by PCMD;
- Warrant Officer training class offered by PCMD (only necessary if individuals performing project oversight need authority to obligate funds; issue DOs; approve overtime, standby, and travel; issue stop work orders; consent to subcontracts; or perform other duties specifically designated as those functions associated with the Contracting Officer);
- Removal Cost Management System (RCMS) training class offered by ERT;
- On-site apprenticeship to a qualified EPA employee performing ERRS project oversight;
- OSHA mandatory 40-hour safety training, entitled "Hazardous Materials Incident Response Operations," offered by ERT; and
- EPA's basic Project Officer training class.

Because the ERRS contracts can also be used for rapid remedial response activities, OSCs may serve in a support role to RPMs for ERRS project oversight in certain situations [12].

Cost Management

All Regions should implement an effective system for managing removal action response costs. This management system should ensure the efficient use of public monies, enable all removal costs to be tracked against program and statutory dollar ceilings, and provide the necessary information to support cost recovery actions. Ultimate responsibility for cost management rests with the OSC. For additional information on cost management, consult the *Removal Cost Management Manual* [15].

Cost Projection

The key to effective cost management is thorough cost projection prior to the start of a response, as well as during a response. Pre-response estimates of costs form the basis for establishing the total project ceiling recorded in the Action Memorandum. Cost projection during a response allows the OSC to anticipate the need for increases in the project ceiling or an exemption from the \$2 million statutory limit.

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Cost Control

Cost control consists of cost planning and monitoring as well as verification of costs. OSCs are in the most advantageous position to control response costs if they remain informed on the availability of cost-effective resources. OSCs should identify non-commercial support services and response equipment available to the Region; familiarize themselves with cost-effective cleanup services in the event contracting outside the ERRS network is required; maintain information on the cost of obtaining, operating, and maintaining safety equipment; and review OSC reports of costs at past responses.

In addition, OSCs are responsible for monitoring site work and verifying that the contractor has provided the personnel, equipment, expendables, and subcontractors for which it has charged the government. OSCs should note the strict limitations under the NCP and EPA contract management policies for delegating these responsibilities to non-Federal personnel such as START contractors or State officials not operating under a cooperative agreement.

Cost Documentation

Cost documentation refers to the specific set of procedures OSCs use to maintain a record of all on-site activities and associated costs. The method of cost documentation must be consistent from day to day at a specific response. The method an OSC selects must ensure thorough recordkeeping for the following items:

- Chronology of events and decisions;
- Site conditions;
- Movement of personnel and equipment (e.g., site entry and exit);
- Contractor planned and authorized work compared to actual accomplishments;
- Contractor costs (e.g., commercial cleanup contracts, letter contracts with States and localities);
- Oversight costs where PRPs undertake action and the Administrative Order does not waive oversight costs; and
- Other costs (e.g., NCLP services, ERT, Regional laboratory services, IAGs, direct Headquarters' and Regional intramural obligations, site access/acquisition).

OSCs should note that the specific cost items to be documented vary depending upon the purpose of the documentation. Tracking actual costs against the project ceiling and \$2 million statutory limit, for example, does not include costs associated with section 104(b) investigations; such costs are tracked in order to support a cost recovery action.

PROCEDURES FOR MANAGING A REMOVAL ACTION

Importance of Cost Documentation

Due to the possibility of cost recovery or other action (e.g., a challenge to the selection of a response action or a claim for reimbursement under CERCLA section 106(b)), OSCs have the responsibility to observe, document, and preserve critical facts about the response and its costs for any action involving the expenditure of CERCLA funds. The cost documentation efforts described above are designed to ensure that potential evidence concerning the release is recorded before response activity or the passage of time obscures or eliminates it; that physical evidence essential for a trial is collected and preserved in a manner that will withstand judicial scrutiny; and that the government has maintained sufficient evidence of total costs and can substantiate the need to incur those costs.

The essential elements of a cost recovery action and the nature of evidence required to sustain such an action are:

- Evidence of a release or threat of release of a hazardous substance;
- Evidence of the liability of the defendant(s) under CERCLA section 107(a) for the release or threatened release of a hazardous substance;
- Substantiation that response actions for which CERCLA funds were expended were not inconsistent with the NCP; and
- Proof of incurred costs and their payment.

Removal Cost Management System

OSCs are encouraged to use the RCMS software, which is designed for on-site use and automates some of the cost management concepts discussed in this section. This software also ensures that costing methods are applied consistently throughout the removal program. RCMS software includes a cost projection module and an efficient and accurate system for on-site cost tracking. EPA provides training on the use of the RCMS. For additional information on the RCMS, consult the *RCMS User's Guide* [22].

Allowable Costs

During a removal action, the OSC is authorized to incur costs provided they qualify as appropriate uses of the Fund. These costs must be directly allocable to a particular response, and must be reasonable and necessary to accomplish the response. Costs incurred by OSCs, both intramural and extramural, for oversight of non-Fund-financed removal actions are allowable. Exhibit 4 provides a description of allowable extramural and intramural costs for removal actions.

EXHIBIT 4. Allowable Costs for Superfund Removal Actions

EXTRAMURAL COSTS

- ☐ Contractor cleanup and consulting costs, including waste cleanup, transportation, and disposal, which are now provided principally by ERRS contractors and supplemented as needed by non-ERRS commercial contractors.
- ☐ Support contractor costs, including START, Response Engineering and Analytical Contract (REAC), NCLP, and Technical Enforcement Services (TES).
- ☐ Other Federal agency vendor and out-of-pocket costs, as either ongoing responsibilities or through a site-specific IAG.
- ☐ State and local assistance obtained through a procurement contract (Order for Services or Letter Contract with State and local governments).*

INTRAMURAL COSTS

- ☐ EPA direct costs, including the salaries, overtime, travel, and per diem of on-site EPA personnel.
- ☐ Direct costs incurred by EPA's ERT.
- ☐ Direct costs incurred by EPA's technical and legal enforcement personnel in Headquarters and the Regions related to cost recovery actions.
- ☐ Indirect expenses including EPA Regional and Headquarters management and administrative costs and fringe benefits.
- ☐ EPA Regional laboratory costs.
- ☐ Other costs, such as EPA leasing or rental of equipment; incremental costs for EPA-owned equipment; supplies, materials, and equipment (including transportation costs) procured for the specific removal activity and fully expended during the removal; access/right-of-way payments to landowners who are not PRPs; and EPA-paid utilities.

* These costs must also be in accordance with OMB Circular A-87 establishing cost principles for State and local governments.

PROCEDURES FOR MANAGING A REMOVAL ACTION

Non-Allowable Costs

Removal action costs that are not allowed include:

- State and local costs for which prior authorization was not specifically given by the OSC or addressed in a CA, SSC, or procurement contract (e.g., municipal services such as the use of police or fire departments and State personnel who are on the scene performing tasks not specifically requested by the OSC). In addition, under EPA's local government reimbursement (LGR) program, materials that were previously budgeted for, and costs that are recovered through cost recovery efforts, may not be reimbursed (see Reimbursements to Local Governments for Emergency Responses to Hazardous Substance Releases Final Rule, 40 CFR Part 310).
- Costs to restore release-related damages to real property (as opposed to response-related damages). Release-related damages are those that occur as a direct result of the release of a hazardous substance (e.g., poisoning of fish or livestock). There is no payment of natural resources damage claims from the Fund.
- Costs for the research and development of equipment and response technologies used in conjunction with a removal action (e.g., innovative disposal technologies). Funding may be available, however, under CERCLA section 311(b). If such a situation arises, the OSC should contact the OSWER Office of Program Management's Resource Management Staff.
- Costs for removal of petroleum (including crude oil and any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance), natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
- Costs incurred by a contractor in providing response measures for which the contractor is later found to be liable.

OSCs should ensure careful documentation of all costs to ensure that the above cost categories are not paid for with Fund monies.

Enforcement

CERCLA authorizes EPA to negotiate settlements, issue orders to persons including PRPs, or sue PRPs to recover cleanup costs when the Fund has been used to finance removal or remedial actions. OSCs play an integral role in EPA's efforts to reach settlement or compel PRPs to perform cleanups or pay for them. Enforcement activities performed by OSCs include PRP search, identification, and notification; negotiations preparation; cost tracking; and information and decision-documentation related to cost recovery [4].

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PRP Searches

The Agency requires known and viable PRPs to conduct removal actions. PRP searches should begin as soon as a removal action appears likely [23]. When possible, ORC should be consulted before a removal action begins or PRP search work is underway; the ORC may have valuable information concerning the PRP's identity. The urgent nature of emergency and time-critical removal actions, however, often requires a Fund-financed response to begin prior to an extensive PRP search. Even if a Fund-financed removal action must be initiated before PRP identification and notification, a complete PRP search should be conducted at all sites. Complete and accurate PRP searches support subsequent negotiations, settlements, and cost recovery. PRP searches vary in length and scope depending on the amount of time between discovery and execution of the Action Memorandum, the urgency of the situation, and the cost of the removal action. Regardless of the urgency of the situation, efforts to locate PRPs should continue throughout the removal action to support cost recovery efforts and possible PRP involvement in continuing or future response actions.

PRP Notification

Following identification of PRPs, Regional enforcement staff, in consultation with OSCs, initiate actions to obtain PRP response. When possible, the Regional program office should issue notice letters to identified PRPs concerning their potential liability and inform them of the intended response action prior to beginning a removal action. Regional enforcement staff should develop notice letters in consultation with OSCs. The notice letters are subsequently issued by the Regional Administrator (RA) or the RA's designee. There are three types of notice letters:

- Notice of potential liability for a removal action that EPA has undertaken or intends to undertake as well as the opportunity for PRPs to conduct work (this may be given orally followed by written confirmation in emergencies);
- Special notice under CERCLA section 122(e) that formal negotiations will be held and that a formal moratorium on a removal action exists;⁴ and
- An explanation under CERCLA section 122(a) of why special notice procedures under CERCLA section 122(e) were not followed.

OSWER has distributed model notice letters that are available in all Regions.

For emergency removal actions, OSCs may notify PRPs orally via the telephone or in person. The Regional Office then confirms the oral notification and any requests for response by sending the PRP a general notice letter, which may be reviewed by ORC when time permits. For time-critical removal actions, OSCs follow the same notification procedures for obtaining PRP response as in emergency actions. However, Regional enforcement personnel

⁴ Emergency and time-critical removal actions do not follow special notice procedures due to the urgency of these situations. Non-time-critical removal actions are exempt from the moratorium provisions when a significant threat to public health or the environment would exist during the moratorium.

PROCEDURES FOR MANAGING A REMOVAL ACTION

should issue notice letters before the start of the removal action. For non-time-critical removal actions, special notice letters may be issued to invoke formal negotiations and a 60-120 day moratorium on EPA response actions. Prior to the issuance of special notice letters or the beginning of negotiations, ORC and other enforcement staff should be consulted. OSCs and Regional enforcement staff should then issue the special notice letters and schedule negotiations as soon as possible to secure an enforcement-lead removal action.

State Notification

For a removal action, States must always be notified prior to negotiations for, or issuance of, an Administrative Order. Notification should be accomplished via letter to the appropriate State department or agency, except in an emergency when preliminary notification may be made by telephone. All telephone notifications must be followed by written confirmation.

Negotiations, Settlements, and Orders

Where viable PRPs have been identified and site conditions allow, OSCs, in consultation with Regional enforcement staff and ORC, plan and participate in negotiations. While the preferred outcome of negotiations is an Administrative Order on Consent (AOC), EPA has the authority to issue a Unilateral Administrative Order (UAO) to compel PRPs to conduct the removal action. In some emergency or time-critical removal actions, sufficient time to negotiate consent agreements with PRPs is not available; therefore, OSCs and Regional enforcement staff may find it necessary to bypass negotiations for an AOC and immediately issue an UAO.

For simple removal actions, the AOC/UAO may include a Work Plan as an attachment. For more complex removal actions, the AOC often details the scope of work and requires the PRP to draft a detailed Work Plan as a first deliverable. All AOCs should contain reimbursement provisions for past costs and oversight costs. If viable and recalcitrant PRPs do not respond to notice letters or do not sign an AOC, OSCs and Regional enforcement staff develop and issue a UAO.

Oversight of Enforcement-Lead Removal Actions

Administrative Orders outline the activities PRPs must undertake and the completion date for the entire removal action and its discrete parts. OSCs, through the oversight process, monitor and determine compliance with the AOC or UAO. OSCs remain at the site, contact on-site personnel daily, or visit the site periodically to monitor compliance. START or TES contractors may assist OSCs in overseeing field activities and reviewing Work Plans, data, and reports. If the enforcement-lead removal action is not conducted appropriately or in a timely manner and is not in accordance with the AOC or UAO, OSCs and Regional enforcement personnel may initiate a CERCLA section 106 judicial action, or EPA may perform the removal action. In either case, oversight activities should include, but are not limited to:

- An initial meeting of the primary cleanup contract official, the PRP-designated Project Manager/Coordinator, and the OSC to review the work to be conducted;

PROCEDURES FOR MANAGING A REMOVAL ACTION

- Periodic status meetings with, or reports submitted to, the OSC to monitor PRP progress; and
- Site inspections at critical points in the removal process.

In addition, a site completion meeting should be arranged to verify that all work was performed as directed.

Public Participation

Public participation procedures for removal actions have been designed to ensure an appropriate level of public involvement without causing unnecessary delay. These procedures encompass two primary components: community relations and development of the administrative record.

Community Relations

When a removal action has been determined to be necessary, it is imperative to give the public prompt, accurate information on the nature of the hazard and the actions necessary to mitigate the hazard. Community relations activities are intended to promote active communication between the community and EPA. The OSC, as the Agency's lead technical representative, is responsible for conducting or delegating community relations activities. The OSC may need to accomplish the following as part of a removal action:

- Designate an Agency spokesperson;
- Notify affected citizens, State and local officials, and civil defense/emergency management agencies;
- Contact the CRC to arrange for on-site support;
- Conduct community interviews for removal actions;
- Review/coordinate any news releases or statements made by participating agencies; and
- Prepare a community relations plan for actions lasting longer than 120 days, including establishing and selecting materials for inclusion in the information repository and informing the public of the availability of the information repository.

At the discretion of the OSC, other community relations activities may be conducted to help implement the community relations plan. Other community relations activities may include conducting public meetings and availability sessions (informal meetings); developing additional public information materials such as fact sheets, public notices, or exhibits; developing a community relations mailing list to facilitate distribution of information about site activities; preparing a meeting summary that provides the community with a written

PROCEDURES FOR MANAGING A REMOVAL ACTION

record of the key points covered during community meetings; and establishing an on-scene information office.

Administrative Record

CERCLA requires the establishment of an administrative record, which is an entire compilation of documents supporting a response action decision. An administrative record file is the body of documents (as they are being compiled) that the Agency considered or relied on to select a removal action. The NCP requires EPA to conduct the activities listed below.

- Establish an administrative record file.
- Select documents to be included in the administrative record file.
- Publish a public notice of administrative record availability. Issue notice within 60 days of initiation of the on-site removal activity for time-critical removal actions, including emergencies. Issue notice of availability of the administrative record with a brief description of the EE/CA for non-time-critical removal actions.
- Make the administrative record file available.
- Provide a period of not less than 30 days for public comment on the EE/CA and supporting documentation for all non-time-critical removal actions and for time-critical actions, as appropriate.
- Document compliance with community relations procedures in the administrative record file.
- Prepare written responses to significant comments and include them in the administrative record file for all non-time-critical removal actions and for those time-critical removal actions for which a public comment period was held.
- Add relevant documents to the administrative record file.

The public participation approach that the OSC adopts for the community should reflect the interests and information needs of the community. The OSC should match the extent and type of information to be communicated with requests and concerns expressed by the community. For example, if a removal action uses a new technology, the OSC may use charts and diagrams as part of the public participation approach to help the community understand basic technological concepts.

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Identification and Compliance with ARARs

In accordance with §300.415(j) of the NCP, on-site removal actions conducted under CERCLA are required to attain substantive State and Federal ARARs to the extent practicable. The NCP identifies two factors that should be considered in determining whether identifying and complying with ARARs is practicable: (1) the urgency of the situation, and (2) the scope of the removal action to be taken. In general, full compliance with ARARs is the highest priority at NPL sites where an exemption to the statutory time and dollar limits may be available based on the "consistency" exemption.

The extent to which OSCs identify and attain ARARs depends on whether the removal action is an emergency, time-critical, or non-time-critical action. For emergency removal actions, OSCs should not delay response in order to identify potential ARARs. During the site evaluation phase, OSCs should identify potential ARARs triggered by the site characteristics to the extent possible given the urgency of the situation. Once immediate threats to human health and the environment have been prevented, stabilized, or mitigated, OSCs should identify ARARs and determine if compliance is practicable.

For time-critical removal actions, OSCs should identify during the site evaluation phase, to the extent practicable, site characteristics that may trigger ARARs. As potential actions are developed, OSCs should identify additional ARARs and, based on site circumstances, determine the practicability of complying with ARARs. If the Action Memorandum is modified during the public comment period, OSCs should then identify new ARARs, reevaluate the practicability of complying with the ARARs, and revise the Action Memorandum accordingly. More detailed information on ARARs can be found in the *Superfund Removal Procedures Guidance on Consideration of ARARs During Removal Actions* [6].

During non-time-critical removal actions, sufficient time should be available for OSCs to ensure that ARARs determinations are based upon a reasonable understanding of site characteristics. In particular, preparing the EE/CA should allow OSCs to fully consider ARARs in the development of response actions [7].

Off-Site Storage, Treatment, and Disposal Procedures

OSCs must follow the procedures described in the final rule on procedures for planning and implementing off-site response actions (40 CFR Part 300) when implementing response actions involving off-site storage, treatment, or disposal of CERCLA wastes. Section 121(d)(3) of CERCLA requires hazardous substances removed from CERCLA sites to be transferred only to facilities that are operating in compliance with RCRA, the Toxic Substances Control Act (TSCA), or other applicable Federal laws or regulations, and all applicable State requirements. The final rule on off-site response actions directs CERCLA wastes to EPA-approved facilities, thus avoiding potential environmental problems that could result from improper disposal. OSCs should bear in mind the Agency's objective that response decisions show consideration of and a preference for treatment, recycling, and reuse as alternatives to land disposal. In meeting the off-site response action requirements, OSCs

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should coordinate closely with the Regional RCRA Off-Site Coordinator (ROC), and TSCA and State personnel as appropriate.

Compliance with the off-site response action final rule is mandatory for removal actions, except in cases where the OSC determines that an emergency exists and that full compliance with the policy might endanger human health, welfare, or the environment. In such cases, OSCs should contact the Regional Coordinators for guidance in determining whether site conditions meet this exemption. In addition, OSCs should consider temporary solutions (i.e., interim storage) to allow time to locate an acceptable facility and secure hazardous substances off-site while evaluating permanent disposal options. OSCs must provide the Regional Administrator, or the RA's designee, a written explanation of the decision to use the emergency exemption within 60 days of taking the action.

Reporting and Recordkeeping

Requirements for Recordkeeping

OSCs must comply with mandatory statutory recordkeeping requirements prescribed by CERCLA and the NCP. Because the Agency may, at any time, be required to prove compliance with these requirements and binding contractual arrangements, OSCs must document and record all decisions and determinations that they make prior to and during a response. In addition, section 113(k) of CERCLA, as amended, requires that an administrative record be established that consists of information the Agency considered or relied on in making its decision on the selection of a removal action.

Site and Regional files and the administrative record are the main repositories for site records and original documentation. Care must be taken to ensure their completeness and long-term security. Selection of removal action, site management, and financial management records are critical when cost recovery or other litigation is involved. Complete and precise OSC records of oral and written communication with the PRP, contractors, and participating Federal, State and local agencies must be maintained should litigation arise at a later time [16].

Prior to beginning a removal action, the OSC should maintain documentation regarding decisions and determinations relating to issues such as:

- The appropriateness of the removal response;
- The possible need for remedial response;
- Findings and recommendations of section 104(b) studies (e.g., ATSDR health advisories);
- Contact with the PRP;
- Planning of response actions;

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- Development of contractual arrangements; and
- Compliance with applicable or relevant and appropriate environmental statutes.

During the course of a Fund-financed removal action, the OSC is responsible for generating and maintaining site-specific documents such as Action Memoranda. Action Memoranda are the primary decision documents to select and authorize removal actions. They are the critical component of the administrative record.

An Action Memorandum is not only a summary of past, current, and proposed activities. It must document consideration of the factors affecting the removal decision. Specifically, it must substantiate the need for a removal action based upon criteria in the NCP, identify the proposed action, and explain the rationale for the removal. Action Memoranda provide a concise written record of the decision selecting a removal action. They describe the site's history, current activities, and health and environmental threats; outline the proposed actions and costs; and document approval of the proposed action by the proper Headquarters' or Regional authority. An addendum to the Action Memorandum, which is not part of the decision to select a removal action, sets forth the enforcement strategy. Each Action Memorandum to initiate a removal must follow the standard model discussed in the *Superfund Removal Procedures Action Memorandum Guidance* [2].

Daily and periodic cost control reports are also prepared by the OSC. It is critical in emergency situations that the OSC maintain a log of on-site activities and record all communications with the contractor and participating Federal, State, and local agencies. Any necessary Federal, State, or local agency cost control recordkeeping requirements may be prescribed in an MOU, IAG procedures for Federal agencies, CA, or SSC. [15].

Pollution Reports (POLREPs)

Pollution Reports (POLREPs) provide documentation of activities for all removal actions under CERCLA, as well as oil spill responses under the Clean Water Act and underground storage tank removal actions under RCRA. The principal function of a POLREP is to inform Regional management, EPA Headquarters, the NRT and RRT, and the trustees of affected natural resources about the:

- Source and circumstances of the release;
- Identity of PRPs;
- Removal actions taken;
- Costs incurred for removal actions; and
- Impacts and potential impacts of the release to public health and welfare and to the environment.

OSCs prepare POLREPs throughout a removal action, providing factual and timely reporting of ongoing removal operations and the total costs incurred for most removal action sites.

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Although the NCP does not require POLREPS for PRP-lead sites, OSCs are encouraged to prepare POLREPS and keep Regional management, Headquarters, the NRT, and the RRT informed of on-site activities, especially any unusual or significant incidents. POLREPs are prepared at the initiation and completion of a removal action, and regularly between the preparation of the initial and final POLREP. POLREPs should be prepared daily, weekly, monthly, or as the need arises due to changes at the site. If an accident occurs during a removal action, a removal action accident report (see Exhibit 3) should be completed and submitted to the appropriate Regional Coordinators in addition to reporting the accident to the Regional Coordinators via a POLREP. Detailed information on preparing POLREPs can be found in the *Superfund Removal Procedures Removal Response Reporting: POLREPs and OSC Reports* [5].

POLREPs are sent to the appropriate Regional Coordinators at:

- E-mail EPA 5511, or
- Telefax number 703-603-9116, or (703) 603-9107.

In the event that these methods of communication are unavailable, POLREPs may be mailed to the appropriate Regional Coordinators at:

U.S. Environmental Protection Agency, MS 5202-G
401 M Street, SW
Washington, DC 20460

In addition, POLREPs should be distributed to Regional branch/section chiefs and all agencies or parties participating in the removal action, such as the USCG, RRT representatives, State representatives, and the U.S. Fish and Wildlife Service.

OSC Reports

Section 300.165 of the NCP requires that the OSC submit a complete report of a removal action at the request of the NRT or RRT. The OSC Report provides a written summary of a removal action, recording the situation as it developed, the actions taken, the resources committed, and the problems encountered.

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PROJECT CLOSE-OUT

All completed removal actions must follow specified closeout procedures. These procedures include preparing and submitting the final OSC report, if required, completing all contract management requirements (e.g., certification of invoices, receipt of off-site disposal report), and ensuring appropriate post-removal site control arrangements with the State, as necessary.

Definition of Action Completion

At the conclusion of the removal action, the OSC should determine when the project is complete. The completion date signifies that all approved actions have been completed and the removal action has abated or mitigated the threats that prompted the action. Completion dates should be 12 months or less from the date of initial response, unless the OSC has obtained an exemption in accordance with the provisions of section 104(c)(1) of CERCLA [24].

For purposes of tracking the 12-month limit, the completion date is defined as the date on which all approved response actions are completed and the contractor and OSC have completely demobilized. Temporary demobilization and temporary storage on-site are not considered completions, *unless* temporary storage is the only action identified in the Action Memorandum to mitigate threats to public health and welfare and the environment. Similarly, temporary off-site storage of hazardous substances at a treatment, storage, and disposal facility other than the facility of ultimate disposal is a continuation of the removal action, not a completion.

In limited situations, a completed removal action at an NPL site may effectively remedy all threats at the site without implementing remedial action, thus rendering the site eligible for deletion from the NPL.

Post-Removal Site Control

Post-removal site control (PRSC) refers to those activities that are necessary to sustain the integrity of a removal action following its conclusion. PRSC activities, such as relighting gas flares, replacing filters, and collecting leachate, are necessary for ensuring the continuing effectiveness of a removal action after the completion of the on-site removal activities or after the \$2 million or 12-month statutory limitations are reached. Removal program policy encourages States, local governments, and PRPs to assume responsibility for PRSC.

If the OSC believes that PRSC will be necessary once the removal action is completed, the OSC should obtain, prior to initiating the removal action, a commitment from the State, local government, or PRP (e.g., a letter agreement or MOU) to perform and fund the PRSC actions necessary to sustain the integrity of the completed removal action. For emergencies, commitment may be obtained after initiation of the removal action. If no agreement can be obtained, the OSC should avoid recommending any removal option that involves continuing PRSC where other options exist that may be implemented at once.

PROJECT CLOSE-OUT

Some situations may require PRSC as part of all removal options. If no State or local government agrees to assume responsibility for PRSC costs, the OSC will be required to justify to the Regional Administrator any continuation of funding from the Fund beyond the 12-month limit. Such a justification must meet one of the two statutory exemption criteria to exceed the 12-month statutory limits; otherwise, funding for the removal action will be terminated.

APPENDIX A. REFERENCES⁴

Guidance

- [1] OSWER Dir. 9360.0-18, "Removal Program Priorities" (March 31, 1988).
- [2] OSWER Dir. 9360.3-01, "Superfund Removal Procedures Action Memorandum Guidance" (December 1990).
- [3] OSWER Dir. 9360.0-19, "Guidance on Non-NPL Removal Actions Involving Nationally Significant or Precedent-Setting Issues" (March 3, 1989).
- [4] OSWER Dir. 9360.3-06, "Superfund Removal Procedures Removal Enforcement Guidance for On-Scene Coordinators" (April 1992).
- [5] OSWER Dir. 9360.3-03, "Superfund Removal Procedures Removal Response Reporting: POLREPs and OSC Reports" (January 1993).
- [6] OSWER Dir. 9360.3-02, "Superfund Removal Procedures Guidance on the Consideration of ARARs During Removal Actions" (August 1991).
- [7] OSWER Dir. 9360.0-32, "Guidance on Conducting Non-Time-Critical Removal Actions Under CERCLA" (August 1993).
- [8] OSWER Dir. 9360.3-08, "Superfund Removal Procedures Removal Response Decision: Site Discovery to Response Decision" (March 1996).
- [9] OSWER Dir. 9360.3-05, "Superfund Removal Procedures Public Participation Guidance for On-Scene Coordinators: Community Relations and the Administrative Record" (June 1992).
- [10] OSWER Pub. 9203.1-05I, Volume 1, Number 5, "SACM Regional Decisions -- Interim Guidance" (October 1994).
- [11] OSWER Dir. 9360.0-13, "Guidance on Implementation of the 'Contribute to Remedial Performance' Provision" (April 6, 1987).
- [12] OSWER Dir. 9242.2-07FS, "SACM Contract Vehicle -- The Emergency and Rapid Response Services (ERRS) Contracts" (February 1993).
- [13] OSWER Dir. 9242.6-07, "Long-Term Contracting Strategy for Superfund" (August 31, 1990).

⁴ Bracketed numbers appear throughout the text and correspond to the references listed in this appendix. These references may be consulted for additional information on specific topics affecting removal response management.

- [14] OSWER Dir. 9360.2-02, "Policy on Management of Post-Removal Site Control" (December 3, 1990).
- [15] OSWER Dir. 9360.0-02B, "Removal Cost Management Manual" (April 1988).
- [16] OSWER Dir. 9360.2-01, "Model Program for Removal Site File Management" (July 1988).
- [17] OSWER Dir. 9234.0-05, "Interim Guidance on Compliance with Applicable or Relevant and Appropriate Requirements" (July 9, 1987).
- [18] OSWER Dir. 9225.4-01, "Guidance on Compensation for Property Loss in Removal Actions" (February 1996, DRAFT).
- [19] NIOSH Pub. 85-115, "Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities" (October 1985).
- [20] OERR Pub. 9285.1-03, "Standard Operating Safety Guides" (June 1992).
- [21] OSWER Dir. 9285.0-01a, "Integrated Health and Safety Program Standard Operating Practices for OSWER Field Activities" (July 1992).
- [22] "User's Guide for Removal Cost Management Software", Version 2.0 (May 1986).
- [23] OSWER Dir. 9834.3-1A, "PRP Search Manual" (August 27, 1987).
- [24] OSWER Dir. 9832.15, "Draft Documentation of Removal Completions for Calculation of CERCLA Statute of Limitations" (August 1, 1989).

Statutes and Regulations

Administrative Regulation on Cooperative Agreements and Superfund State Contracts, 40 CFR Part 35, Subpart O.

Amendment to the National Oil and Hazardous Substances Pollution Contingency Plan; Procedures for Planning and Implementing Off-Site Response Actions Final Rule, 40 CFR Part 300.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 USC 9601-9675.

Hazardous Waste Operations and Emergency Response Final Rule, 29 CFR 1910.120.

The National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR Part 300.

Reimbursements to Local Governments for Emergency Responses to Hazardous Substance Releases Final Rule, 40 CFR Part 310.

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