



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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MEMORANDUM

SUBJECT: Current National Superfund Program Priorities

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TO: Regional Administrators
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PURPOSE

This memorandum discusses current national Superfund Program Priorities for Fiscal Year 1993. This memorandum provides guidance outlining those priorities, both in terms of what we must achieve, and equally important to our success, how we must achieve it.

BACKGROUND

Increasing programmatic demands at Headquarters and the Regional Offices, the pending reauthorization of the Superfund program and the new Administration's need to be informed of our present directions have made it important that our current programmatic priorities be defined and clearly communicated. Recent meetings with Regional Waste Management Division Directors and Superfund Branch Chiefs have confirmed this need. After careful consideration, the Office of Solid Waste and Emergency Response (OSWER) and the Office of Enforcement (OE) have reached a consensus regarding Superfund's major program priorities. This memorandum provides guidance outlining those priorities, which should govern our operations during the transition.

This guidance molds national and Regional Superfund program activities into a unified prioritized order. We believe, as National Program Managers for Superfund and for Enforcement that it is essential for Regional and Headquarters staff and management to work together to meet the priorities (or challenges) described below. A concentrated cooperative effort will help us meet the challenges we face.

MAJOR SUPERFUND PRIORITIES

1. CONSTRUCTION COMPLETIONS

EPA committed itself in FY-92 to more than doubling (to a cumulative total of 130) the number of National Priorities List (NPL) construction completions; tripling this number (to a cumulative total of 200) by the end of FY-93; and to reaching at least 650 NPL construction completions by the end of the decade (year 2000). This commitment (which we exceeded substantially in FY-92) was vital to presenting our program progress accurately, and is still in effect. We are counting on the Regions, working with States, to continuously identify opportunities for expediting construction completions and response actions for timely site reporting. This will help build the program's credibility that is vital to Superfund's long-term success.

2. ENFORCEMENT

Regions should continue to maximize PRP participation in the removal and remedial programs. As we test out ways to accelerate and complete cleanup, we should simultaneously test out ways to encourage PRPs to conduct investigations and cleanups earlier in the process.

Responsible parties have been performing an ever increasing proportion of response actions at Superfund sites. Creative and effective use of all relevant enforcement tools is essential to delivering our construction completions and accelerated cleanup priorities. Settlements with responsible parties to perform response actions are preferable where they can be achieved, but Regions should be prepared to utilize unilateral administrative orders (UAOs) and judicial actions, including actions for temporary and preliminary injunctive relief, in appropriate situations, to compel PRPs to undertake response actions.

Equally important is effective monitoring of PRP compliance with existing Consent Decrees, Unilateral Administrative Orders and Administrative Orders on Consent, and taking appropriate enforcement responses where there is failure or refusal to comply.

While we recognize that enforcement outputs in any given year are the product of a variety of factors in preceding years, it is essential that Superfund's highly productive enforcement program not relax. We will continue to evaluate Regional enforcement performance on a variety of grounds, including RD/RA negotiation completions, numbers of civil judicial referrals of RD/RA settlements and cost recovery actions, unilateral orders in compliance, value of response actions, and numbers of enforcement actions to compel compliance with existing orders and decrees.

3. ACCELERATED CLEANUP

The technical complexity of the hazardous waste site problem coupled with complex Superfund site study and cleanup requirements have left the Superfund program vulnerable to criticism. Therefore,

the program must refocus its attention on a few major outcomes that the public will value. We must ensure the desired outcome is delivered on time and in terms the public will understand. For this reason, a new Superfund paradigm, the Superfund Accelerated Cleanup Model (SACM), is under field demonstration. Major characteristics of SACM include: (1) Integrated Site Assessment Function, (2) Regional SACM Teams, (3) Increased Number of Early Actions (immediate threats to public health and safety will be eliminated first), (4) Long-term Remediation, and (5) Early Enforcement Actions. We encourage the Regions to work cooperatively with EPA headquarters personnel to conduct pilot proposals that test the various facets of SACM, utilize presumptive remedies, implement soil cleanup standards, consider voluntary cleanup, and preserve cost recovery opportunities.

4. BASE CLOSURES

Under the Base Realignment and Closure Acts of 1988 and 1990, 113 military installations are scheduled for closure or realignment. Of this total, 21 sites are on the NPL, and there are a number of non-NPL sites requiring some degree of decontamination.

State and local communities are very concerned about the effect of closing installations on the local and regional economy. Faced with a potential loss of jobs and revenues, they have a strong interest in expediting the transfer of property. Many fear that EPA will only hinder the process rather than facilitate transfer and economic redevelopment.

It has been EPA's experience to date that site remediation at closing bases is more pressured than at non-closing Department of Defense (DOD) facilities. Accordingly, the Agency must continue to assist DOD in assessing these properties, accelerating actions wherever possible, and ensuring that remedies selected at NPL sites meet Superfund and National Contingency Plan (NCP) criteria. We remain committed to working with DOD, State/local government, and private interests in expediting cleanup and supporting responsible transfers of Federal property to non-Federal parties for reuse and economic development.

5. ENFORCEMENT FAIRNESS

One of the most pressing matters facing the Superfund Program is that of ensuring parties who have responsibility for cleanup are treated equitably. Speedy and fair resolution of their liability is vital. We have several initiatives ongoing to address these issues; e.g., De minimis Settlements, the non-settlor initiative and the voluntary cleanup initiative.

The de minimis initiative is designed to: (1) expedite the resolution of the liability of small waste contributors, and (2) complete settlements earlier in the process, preferably before signing the Record of Decision (ROD). Regions should seek opportunities for settling with de minimis parties wherever possible. Guidance was issued on June 2, 1992, suggesting procedures for

achieving early de minimis settlements; this will be followed by guidance for settling with very small contributors.

The non-settlor initiative includes timely enforcement through UAO enforcement or cost recovery including seeking penalties and treble damages. For all parties who come forward and commit to cleanup, we should provide vigorous Agency pursuit of non-settlers to signal our own good faith and commitment to fair and equitable treatment.

Finally, our success in maximizing PRP participation in cleanup has generated growing interest in "voluntary" cleanup, e.g., PRPs indicating a strong desire to proceed with remediation at sites which may not be on the Region's agenda for immediate attention. We will work to develop a comprehensive strategy to encourage and properly manage voluntary cleanup projects through a variety of Regional projects.

6. EFFECTIVE CONTRACT MANAGEMENT

Scrutiny of Superfund contracts by parties within and outside the Agency has pointed to the need for an emphasis on good contract management and made it not only a Superfund priority but also an Agency-wide priority. We need to continue to implement the recommendations of the Agency Task Force on Alternative Remedial Contracting Strategy (ARCS) contracts, and build a future with reliable cost-effective contracts across the program through implementation of the Superfund Long-Term Contracting Strategy. Responsible, trained, and reliable personnel should be used to oversee the procurement and administration of these contracts. Senior management involvement is essential for accountability. We need to change the perception that Superfund contracts are poorly managed and prove that funds are being responsibly expended in the public interest.

Staff across program areas must work together and communicate frequently with their contracting support offices. Contractors must realize that Superfund program management is serious in its efforts to effect an appropriate return on investment. Principles of good contract management must permeate the day-to-day activities of the program at all levels.

7. COMMUNICATING SUCCESS/PUBLIC INVOLVEMENT

A key component in revitalizing Superfund is a commitment to convey progress and accomplishment at every opportunity. Streamlining and accelerating Superfund cleanup activities will not improve the public's perception of the program unless the public is well informed of EPA's progress and meaningfully involved in site decisions. We must invigorate and enhance communications with people affected at Superfund sites. The Agency is committed not only to meeting the information needs of local communities but also to involving the public in site decisions. The focus should be to recognize citizen and community concerns and communicate with them early, often, and always. Although we cannot promise that EPA will do everything the community asks, we can promise to consider their

major concerns and, where appropriate, incorporate these concerns into the site decision.

In addition, Headquarters and Regional staff must work together to develop new methods for describing Superfund success. A number of projects already underway are designed to supplement Superfund's traditional communications tools, e.g., press releases and fact sheets. The new projects include "Superfund Progress" (a national quarterly report), "Superfund at Work" (site-specific success stories), "Superfund Response Alerts," and Citizens' Guides to Innovative Technologies. Our goal is to make information about Superfund readily available and easily understandable to the general public, as well as other concerned audiences.

8. INNOVATIVE TECHNOLOGIES

OSWER and OE are seeking to further the use of innovative treatment technologies to permanently cleanup contaminated sites in the Superfund, RCRA, and Underground Storage Tank (UST) programs. According to a prior directive, "...we must invest the necessary resources and take the risks now to develop the technologies necessary to fulfill the long-term needs of our hazardous waste clean-up programs." The OSWER directive, which was signed June 10, 1991, calls for technological leadership and a sense of responsible urgency to prevent expenditures in pursuing less effective or more costly remedies.

Innovative treatment technologies should be routinely considered as an option in engineering studies where treatment is appropriate. They should not be eliminated from consideration solely because of uncertainties in their performance and cost. These technologies may be found to be cost-effective, despite the fact that their costs are greater than conventional options after consideration of potential benefits, including increased protection, superior performance, and/or greater community acceptance. In addition, future sites will benefit by information gained from the field experience.

Both OSWER and OE strongly support the concept of using Federal facilities for developing innovative technologies. A good example of such a project is at McClellan Air Force Base in Region IX where a Technology Demonstration Center is under development. Federal facilities offer a number of benefits: sole responsible parties, acknowledged liability, controlled sites, funding, and willingness. This is an area of potentially great opportunity to develop technologies that reduce the cost and time of cleanup.

SUMMARY

We recognize that all Superfund managers and staff have a lot on their plate and cannot do everything that all of our customers want us to accomplish. We hope that this delineation of the major OSWER-OE Superfund priorities will assist you as you make tough choices about where to focus your resources and programmatic efforts.

cc: Deputy Regional Administrators, Regions I-X
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