



DIRECTIVE NUMBER: 9250.3-02

TITLE:

GUIDANCE ON IMPLEMENTING WAIVER OF 10 PERCENT
COST-SHARING FOR REMEDIAL PLANN

APPROVAL DATE: 06/03/83

EFFECTIVE DATE: 06/03/83

ORIGINATING OFFICE: Office of Solid Waste

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☐ **DRAFT**

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

JUN 1 1983

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

OSWER Directive 9250-3-02

SUBJECT: Guidance on Implementing Waiver of 10 Percent Cost-Share for
Remedial Planning

FROM: William N. Hedeman, Jr., Director *William N. Hedeman*
Office of Emergency and Remedial Response (WH-548)

TO: Regional Administrators
Regional Superfund Coordinators

On May 13, 1983, Lee Thomas, Acting Assistant Administrator for Solid Waste and Emergency Response, obtained a class deviation from 40 CFR 30.720(a) permitting the waiver of cost-sharing requirements for remedial planning activities (remedial investigation, feasibility study, and remedial design) at privately-owned sites [Attachment 1].

This memo establishes procedures for implementing the May 13, 1983, policy.

(1) Cooperative Agreements

- (a) Active Cooperative Agreements: Cooperative agreements that were signed by the EPA award official prior to May 13, 1983.

For those active cooperative agreements, where the State was required to cost-share (State services, cash or statutory credit) for remedial planning activities at privately-owned sites, allowable State cost-shares will be applied toward the State's share of the costs for remedial action ("construction") at that site. Allowable State cost-shares which have been incurred or will be incurred under the agreement may be applied to future remedial action at that particular site.

This cost-sharing arrangement maybe accomplished through a cooperative agreement amendment request made by the State to the Region. The Region will forward this amendment request to the appropriate zone manager in the Hazardous Site Control Division (HSCD). EPA will then send the State a formal amendment.

If the State has not yet paid its remedial planning cost-share and does not want to contribute any share during planning, the State must request a cooperative agreement amendment and submit a revised budget to the Region indicating that Federal funds will pay 100 percent of remedial planning costs. The Region should forward

this amendment and budget to the appropriate zone manager in HSCD. EPA will send the State a formal amendment containing a special condition pertaining to the change in cost-sharing and the additional EPA funds to support the cost-share change.

For those agreements where the State has made partial payment of its cost-share, the State has the option of continuing to pay its share and apply it towards construction or submitting a revised budget to reflect 100 percent Federal funding for those parts of the project remaining after June 15, 1983. In both situations, the State must request an amendment to the agreement.

All cost-shares paid by the State may be applied to future construction at that site.

(b) Cooperative Agreement applications received in final by EPA prior to June 15, 1983.

Applications received by EPA prior to June 15, 1983, need not be returned to the State; however, the Region should contact the State regarding 100 percent Federal funding. Based on the State's choice, the cooperative agreement will either reflect 100 percent funding or reflect the State's desired contribution to the remedial planning activities. If the State desires to contribute during these activities, EPA will permit allowable State contributions to be used towards the State cost-sharing responsibilities for future remedial action at the site. This will be stated in a special condition to the cooperative agreement.

(c) Cooperative Agreement applications received in final by EPA after June 15, 1983.

Any final applications received by EPA after June 15, 1983, should reflect 100 percent Federal funding for remedial planning activities.

For those agreements where the State was required to cost-share for remedial planning activities¹ and those cooperative agreement applications

¹ Information in HSCD indicates that these are the active cooperative agreements affected by this policy. Should Regions/States believe that other cooperative agreements are impacted, please contact the appropriate zone manager in HSCD.

<u>Region I</u>	Keefe, N.H.
<u>Region II</u>	Spence Farm, NJ; Goose Farm, NJ; Friedman, NJ; Pigak, NJ and Syncon Resins, NJ; Love Canal, NY
<u>Region V</u>	Berlin and Farro, MI; LDI, MI; Byron Salvage, IL; Cross Brothers, IL; Reilly Tar, MN
<u>Region VI</u>	Old Inger, LA; Highland Acid, TX; Harris, TX; Crystal Chemical, TX
<u>Region VIII</u>	Central City, CO; Woodbury, CO; Arsenic Trioxide, ND
<u>Region X</u>	Commencement Bay, WA

submitted to EPA prior to June 15, 1983, the Regions must determine, as soon as possible, what the States' decision is on cost-sharing .

(2) Superfund State Contracts (SSCs)

All existing SSCs where the State is required to cost-share for remedial planning² must be amended to reflect 100 percent Federal funding. The State may elect under existing SSCs, however, to contribute to the remedial planning activities and apply any allowable contribution to remedial construction at that site.

Since cost-sharing has been eliminated, future Federal lead projects for remedial planning activities will not need an SSC. We require, however, that the State request EPA action at the site and approve the scope of work. This should be accomplished by a letter from the State to the Region.

Because Initial Remedial Measures (IRMs) are considered part of the "remedial action" phase at a site, cost-sharing will be required and an SSC must be prepared.

Attachment

² Information in HSCD indicates that these are the active SSCs affected by this policy. Should Regions/States believe that other SSCs are impacted, please contact the appropriate zone manager in HSCD.

Nyanza, MA; Lipari, NJ; Kin-Buc, NJ; Lone Pine, NJ; D'Imperio, NJ;
Krysowaty, NJ; Bridgeport, NJ; Price Landfill, NJ; Drake, PA;
Tybouts, DE; Enviro-Chem, IN; OMC, IL; Minker-Stout, MO and Globe, AZ



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

MAY 13 1983

ATTACHMENT I

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Waiver of 10 Percent Cost-Share for Remedial Planning
Activities at Privately-Owned Sites

FROM: 
Lee M. Thomas
Acting Assistant Administrator

TO: Regional Administrators
Regional Superfund Coordinators

On March 11, 1982, cost-sharing was imposed on remedial planning activities (investigation, feasibility study and design) at privately owned sites. This requirement was adopted to ensure early State involvement in remedial actions. Requiring cost-sharing for planning provides a mechanism for EPA to encourage States to become more involved in the planning of a project.

Our experience has shown, however, that the current policy contributes substantially to program delays and to State financing problems. We have found that the policy provides only negligible benefits in terms of Fund conservation since planning costs are generally a small component of total response costs.

Therefore, I am directing a reversal of current policy to allow the funding of remedial investigation, feasibility study, and remedial design at privately-owned sites without a State cost-share.

Implementation:

Any cost-shares previously paid by the State (allowable State services, statutory credit or cash) for remedial investigations, feasibility studies, and remedial design at privately-owned sites will be applied toward the State's share of the cost for remedial construction at that site. Additional guidance on implementing this policy will be forthcoming.

This policy is effective immediately.

If you have any questions on this policy, please contact Doug Cohen of my staff at FTS 382-2206.