



DIRECTIVE NUMBER: 9360.0-15

TITLE: The Role of Expedited Response Actions Under SARA

APPROVAL DATE: April 21, 1987

EFFECTIVE DATE: April 21, 1987

ORIGINATING OFFICE: Office of Solid Waste

☒ **FINAL**



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STATUS:

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| [] | A- Pending OMB approval |
| [] | B- Pending AA-OSWER approval |
| [] | C- For review &/or comment |
| [] | D- In development or circulating
headquarters |

REFERENCE (other documents):

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 United States Environmental Protection Agency Washington, DC 20460		1. Directive Number 9360.0-15
OSWER Directive Initiation Request		
2. Originator Information		
Name of Contact Person Robert Quinn	Mail Code WH-548E	Office OERR/HSCD
		Telephone Number 382-2350
3. Title The Role of Expedited Response Actions Under SARA		
4. Summary of Directive (Include brief statement of purpose) Provides an update to a July 8, 1986 memorandum from Henry Longest to David Wagoner (Dir. #9360-10). Clearly defines ERAs as removal actions performed by remedial contractors. Provides direction on the appropriate use of ERAs.		
5. Keywords Superfund, CERCLA, SARA, response actions, removal, remedial, expedited response actions, ERA, NPL		
6a. Does this Directive Supersede Previous Directive(s)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No What directive (number, title)		
b. Does It Supplement Previous Directive(s)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No What Directive (number, title) 9360.0-10 - Expedited Response Actions		
7. Draft Level <input type="checkbox"/> A - Signed by AA/DAA <input type="checkbox"/> B - Signed by Office Director <input type="checkbox"/> C - For Review & Comment <input type="checkbox"/> In Development		
This Request Meets OSWER Directives System Format		
8. Signature of Field Office Director/Coordinator 		Date 2.19.87
9. Name and Title of Approving Official Henry L. Longest II, Director, OERR		Date APR 21 1987

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 DIRECTIVE DIRECTIVE



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

APR 21 1987

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE
Directive 9360.0-15

MEMORANDUM

SUBJECT: The Role of Expedited Response Actions Under SARA

FROM: Henry L. Longest II, Director
Office of Emergency and Remedial Response (WH-548)

TO: Addressees

This memorandum serves as a follow-up to a July 8, 1986 memorandum sent from me to David Wagoner, Director of the Waste Management Division in Region VII. That memorandum, OSWER Directive #9360.0-10 (attached), laid out the basic tenets of expedited response actions (ERAs) and their role in the Superfund Remedial Program. In light of the developments which have occurred in the interim, as well as in response to the numerous inquiries we have received on ERAs over the past few months, I believe an update to that memorandum is needed at this time.

ERAs were created in response to the February 1986 update to the National Contingency Plan (NCP), which melded three previously-existing activities, immediate removals, planned removals and initial remedial measures, into one general activity category of removals. ERAs, which fall under this general removal heading, are designed to address those situations at National Priorities List (NPL) sites which were previously performed as initial remedial measures (e.g., fences, drainage controls, alternative water supplies, etc.). The major distinction between ERAs and other removal actions, however, is the fact that ERAs are directed by Remedial Project Managers (RPMs) and are performed by remedial contractors who are either in the process of conducting a response activity, such as an RI/FS, at the site or are scheduled to initiate a response activity at the site.

One possible scenario which might lend itself to the implementation of an ERA is the case of a remedial contractor who, while performing a remedial investigation of a proposed or final NPL site, discovers buried drums. Upon discovery of the drums, a determination must first be made that a threat exists sufficient to meet the removal criteria as spelled out in the NCP. A further determination must be made that the existing threat is not so

significant as to warrant the performance of a classic emergency or time-critical removal action. Once these determinations have been made, it is then left to the discretion of Regional management to have the excavation and disposal of the drums performed as an ERA by the remedial contractor or as a non-time-critical removal by a removal contractor. The implementation of an ERA would negate the need to bring in a removal contractor specifically for this task. This would result in a savings of time and money by ensuring consistency and thus avoiding the need to expend resources for the education of the removal contractor on site conditions, etc. As is the case with all removal actions, any activity implemented as an ERA must, to the maximum extent practicable, contribute to the efficient performance of any long-term remedial action performed at the site.

Once the decision has been made to perform an ERA at a site, the remedial A/E firm next conducts an engineering evaluation/cost analysis (EE/CA). Draft guidance on how to perform an EE/CA for all types of removal actions, including ERAs, will be released in draft form in the near future. With regard to the analysis of alternatives for an ERA, the EE/CA is closely akin to a focused feasibility study. As such, the EE/CA should consider all Federal and State applicable or relevant and appropriate requirements and should stress the use of permanent solutions and alternative treatment technologies to the maximum extent practicable. In addition, all alternatives involving off-site disposal should be consistent with SARA and the Off-site Disposal Policy. Furthermore, any EE/CA performed for non-time-critical removal actions, such as ERAs, will be subject to an environmental review and a three - week public comment period. After preparation of a responsiveness summary, the recommended alternative for the ERA is officially approved by the Regional Administrator through the signing of an Action Memorandum.

Given that ERAs are removal actions, they are subject to all removal program requirements, including the one-year, \$2 million statutory limitations. (It should be noted by remedial staff not familiar with these limitations that the \$2 million cap includes the cost of EPA project management during the implementation phase. This results in the need for precise recordkeeping on the part of the RPM.) A Region may apply to Headquarters for an exemption from these limitations. However, it is recommended that, if the Region anticipates that the action to be taken will be long-term and complex in nature, the Region should consider performing the action as a remedial operable unit. RPMs should work closely with their counterparts in the removal program throughout the implementation of an EE/CA and ERA in order to ensure that all removal authority requirements have been met. Regional personnel should also refer to the Superfund Removal Procedures for further information on specific removal requirements.

As with all non-time-critical response actions, the RPM should provide adequate opportunity for potentially responsible parties (PRPs) to conduct the ERA. The Agency policy on the Issuance of Administrative Orders for Removal Actions (February 21, 1984) is still in effect and should be consulted when assessing the selection of an EPA. RPMs should coordinate notification of PRPs with Regional-enforcement personnel. The Region should conduct a PRP-search if one has not already been conducted and issue notice letters. At sites designated as enforcement-lead, the Region should consider the issuance of unilateral Administrative Orders and, if necessary, the referral of a judicial action. If a settlement is reached and the PRPs agree to perform the work originally intended to be conducted as an ERA, the activities performed by the PRPs would be considered a non-time-critical removal and not specifically an ERA since, by definition, ERAs are performed by remedial contractors.

Funding for ERAs is included within the remedial SCAP budget. However, current policy calls for these funds to be drawn down on the removal accounting code. This has caused some difficulty and confusion in a number of Regions. In response, we have established a separate accounting code for ERAs. This code, letter W, is the same code previously used for the now-obsolete initial remedial measures. (Note: This memorandum serves as an advance notification of the establishment of this code. You will be receiving in the near future a formal notification which will contain other information on the use of this code.)

If you have any further questions with regard to the appropriate use of ERAs, please contact Bob Quinn of my staff at 382-2350.

Attachment

Addressees:

Director, Waste Management Division, Regions I, IV, V, VI, VII and VIII

Director, Emergency and Remedial Response Division, Region II

Director, Hazardous Waste Management Division, Region III

Director, Toxics and Waste Management Division, Region IX

Director, Hazardous Waste Division, Region X

Director, Environmental Services Division, Regions I, VI, and VII

cc: Superfund Branch Chiefs, Regions I-X

Gene Lucero

Russ Wyer

Tim Fields



DIRECTIVE NUMBER: 9360.0-10

TITLE: Expedited Response Actions

APPROVAL DATE: July 3, 1986

EFFECTIVE DATE: July 8, 1986

ORIGINATING OFFICE: OERR / HSCD

☒ **FINAL**

☐ **DRAFT**

STATUS: Final

REFERENCE (other documents):

Supplements 9360-0-6A Relationship of the Removal and
Remedial Programs Under the Revised NCP

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