



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

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE
OSWER Directive #9230.1-01

MEMORANDUM

SUBJECT: Interim Guidance on Technical Assistance Grants
FROM: *J. Winston Porter*
J. Winston Porter, Assistant Administrator
Office of Solid Waste and Emergency Response
TO: Waste Management Division Directors, Regions I-X

The Superfund Amendments and Reauthorization Act of 1986 (SARA) section 117(e) provides for technical assistance grants to "any group of individuals which may be affected by a release or threatened release at any facility which is listed on the National Priorities List (NPL)." The grants can total as much as \$50,000 per NPL site over the course of the cleanup effort. Each group is required to contribute 20% of the total cost of the technical assistance. There are provisions for waiving the 20% match and the \$50,000 ceiling (see attached SARA section 117).

The law specifies that the technical assistance grants will be provided in accordance with rules promulgated by the President. The President, through an Executive Order, has delegated the responsibility for rule making to the Environmental Protection Agency (EPA). As the first step in the rule development process, the Agency will issue an Advance Notice of Rule Making (ANRM). The purpose of this Notice is to describe a variety of issues involved in establishing the program and seek public input into the direction of the grant program. The Agency will publish the Advance Notice in the Federal Register this spring.

The next step will be to develop an Interim Final Rule, which also will be published in the Federal Register. Grant funds can only be provided after Federal Register publication of the Interim Final Rule. The Rule will include eligibility requirements and formal procedures for the application and management of the grants. We are also preparing a guidance manual which will detail the application procedures and administrative and management requirements for the technical assistance program. We anticipate that both the Interim Final Rule and the manual will be available next fall, approximately six months after the Advance Notice.

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I understand that a number of Regions have already received requests for technical assistance grants. While we cannot accept grant applications now, we can provide background information on the technical assistance grant provision and record citizen requests for the Advance Notice, Manual, and Interim Final Rule. At the time of Federal Register publication, each Region will be asked to distribute this material to obtain public comment. I am attaching a fact sheet on the status of the technical advisor program, which may be distributed to the public, as well as a tracking form Region V has developed.

In many instances, citizens have also requested suggestions on how they can prepare in advance of the Interim Final Rule. Citizens can:

- Notify community leaders or organizations within the community of the grant program, and determine interest.
- Comment on the Advance Notice of Rule Making (ANRM) to be published in the Federal Register. (We will encourage public involvement in the development of the technical assistance program.)

If you have any questions concerning the Technical Assistance Grant Program please call either Daphne Gemmill at FTS 382-2460 or Anne Fenn at FTS 382-2464.

Attachments

cc: Superfund Community Relations Coordinators, Regions I-X
Office of Public Affairs Directors, Regions I-X
Grants Administration Directors, Regions I-X
OERR Division Directors
Susan Bullard
Pam Garrow
Richard Johnson
Karen Clark

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nation of why such action could not be completed by the specified date.

“(d) **COMMENCEMENT OF RI/FS.**—The President shall assure that remedial investigations and feasibility studies (RI/FS) are commenced for facilities listed on the National Priorities List, in addition to those commenced prior to the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, in accordance with the following schedule:

“(1) not fewer than 275 by the date 36 months after the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and

“(2) if the requirement of paragraph (1) is not met, not fewer than an additional 175 by the date 4 years after such date of enactment, an additional 200 by the date 5 years after such date of enactment, and a total of 650 by the date 5 years after such date of enactment.

“(e) **COMMENCEMENT OF REMEDIAL ACTION.**—The President shall assure that substantial and continuous physical on-site remedial action commences at facilities on the National Priorities List, in addition to those facilities on which remedial action has commenced prior to the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, at a rate not fewer than:

“(1) 175 facilities during the first 36-month period after enactment of this subsection; and

“(2) 200 additional facilities during the following 24 months after such 36-month period.”.

SEC. 117. PUBLIC PARTICIPATION.

Title I of CERCLA is amended by adding the following new section after section 116:

“SEC. 117. PUBLIC PARTICIPATION.

“(a) **PROPOSED PLAN.**—Before adoption of any plan for remedial action to be undertaken by the President, by a State, or by any other person, under section 104, 106, 120, or 122, the President or State, as appropriate, shall take both of the following actions:

“(1) Publish a notice and brief analysis of the proposed plan and make such plan available to the public.

“(2) Provide a reasonable opportunity for submission of written and oral comments and an opportunity for a public meeting at or near the facility at issue regarding the proposed plan and regarding any proposed findings under section 121(d)(4) (relating to cleanup standards). The President or the State shall keep a transcript of the meeting and make such transcript available to the public.

The notice and analysis published under paragraph (1) shall include sufficient information as may be necessary to provide a reasonable explanation of the proposed plan and alternative proposals considered.

“(b) **FINAL PLAN.**—Notice of the final remedial action plan adopted shall be published and the plan shall be made available to the public before commencement of any remedial action. Such final plan shall be accompanied by a discussion of any significant changes (and the reasons for such changes) in the proposed plan and a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations under subsection (a).

“(c) **EXPLANATION OF DIFFERENCES.**—After adoption of a final remedial action plan—

“(1) if any remedial action is taken,

“(2) if any enforcement action under section 106 is taken, or

“(3) if any settlement or consent decree under section 106 or section 122 is entered into,

and if such action, settlement, or decree differs in any significant respects from the final plan, the President or the State shall publish an explanation of the significant differences and the reasons such changes were made.

“(d) **PUBLICATION.**—For the purposes of this section, publication shall include, at a minimum, publication in a major local newspaper of general circulation. In addition, each item developed, received, published, or made available to the public under this section shall be available for public inspection and copying at or near the facility at issue.

“(e) **GRANTS FOR TECHNICAL ASSISTANCE.**—

“(1) **AUTHORITY.**—Subject to such amounts as are provided in appropriations Acts and in accordance with rules promulgated by the President, the President may make grants available to any group of individuals which may be affected by a release or threatened release at any facility which is listed on the National Priorities List under the National Contingency Plan. Such grants may be used to obtain technical assistance in interpreting information with regard to the nature of the hazard, remedial investigation and feasibility study, record of decision, remedial design, selection and construction of remedial action, operation and maintenance, or removal action at such facility.

“(2) **AMOUNT.**—The amount of any grant under this subsection may not exceed \$50,000 for a single grant recipient. The President may waive the \$50,000 limitation in any case where such waiver is necessary to carry out the purposes of this subsection. Each grant recipient shall be required, as a condition of the grant, to contribute at least 20 percent of the total of costs of the technical assistance for which such grant is made. The President may waive the 20 percent contribution requirement if the grant recipient demonstrates financial need and such waiver is necessary to facilitate public participation in the selection of remedial action at the facility. Not more than one grant may be made under this subsection with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of remedial action.”.

SEC. 118. MISCELLANEOUS PROVISIONS.

(a) **PRIORITY FOR DRINKING WATER SUPPLIES.**—Title I of CERCLA is amended by adding the following new section after section 117:

“SEC. 118. HIGH PRIORITY FOR DRINKING WATER SUPPLIES.

“For purposes of taking action under section 104 or 106 and listing facilities on the National Priorities List, the President shall give a high priority to facilities where the release of hazardous substances or pollutants or contaminants has resulted in the closing of drinking water wells or has contaminated a principal drinking water supply.”.

(b) **REMOVAL AND TEMPORARY STORAGE OF CONTAINERS OF RADON CONTAMINATED SOIL.**—Not later than 90 days after the enactment of

Fact Sheet

Technical Assistance Grant Program

I. BACKGROUND

The Superfund Amendments and Reauthorization Act of 1986 (SARA) section 117(e) provides that technical assistance grants can be made available to "any group of individuals which may be affected by a release or threatened release at any facility which is listed on the National Priorities List (NPL)." The grants "may be used to obtain technical assistance in interpreting information with regard to the nature of the hazard, remedial investigation and feasibility study, record of decision, remedial design, selection and construction of remedial action, operation and maintenance or removal action at such facility."

Not more than one technical assistance grant may be provided to a single NPL site. The grant may total up to \$50,000 over the course of the cleanup effort. Each community is required to contribute at least 20% of the total cost of the technical assistance. There are provisions for waiving the 20% match and the \$50,000 ceiling when proven necessary.

II. STATUS

Under the law, the Environmental Protection Agency (EPA) can provide grant funds only after procedural rules have been written and published in the Federal Register. (The Federal Register is a daily report which records Government Agency regulations and activities.) The first step in writing this regulation will be an Advance Notice of Rule Making. The Advance Notice will solicit comments on the major issues the Agency needs to resolve in order to establish the program. The Agency will publish the Advance Notice in the Federal Register in the Spring of 1987. The Advance Notice will also be available in the ten EPA Regional Offices for distribution to the public for comment. A 45 day public comment period will be held.

The second step for the EPA will be to consider all public comments received and write the Interim Final Rule. The Interim Final Rule will describe the process for obtaining and managing the technical assistance grants and will be published in the Federal Register in the Fall of 1987. A 60 day public comment period will be held. Technical assistance grants may be provided once the Interim Final Rule is published.

The third and last step is the development of the Final Rule. The Agency will revise the rule as appropriate and publish the final regulation in, the Federal Register.

III. MAJOR ISSUES

The major issues under consideration by the Agency include:

- Who is eligible to receive technical assistance grants?
- What are the eligible activities for funding?
- Under what conditions will the 20% contribution requirement be waived?
- Under what conditions should the \$50,000 per grant be waived?
- Who should provide support and training to communities; State Agency staff, EPA contractors, or EPA staff?
- Who should administer the technical assistance grants program EPA and/or the States?
- What roles can municipalities legally take in the technical assistance program?

These and additional issues will be discussed in the Advance Notice of Rule Making.

Technical Assistance Request

Name Of Person Initiating Contact _____

Address _____

Phone () _____

Name of Groups _____

Name of NPL Site _____

How Is This Group(s) Affected? _____

Is The Group A Coalition? Yes No

If yes, Name of Other Groups _____

Date of Original Inquiry _____

Follow Up: Mail - Advance Notice of Rule Making - Date _____

Mail - Citizen Guidance Manual - Date _____

Mail - Interim Final Rule - Date _____