



# Summary of "Interim Guidance: Streamlining the CERCLA Settlement Decision Process"

Office of Waste Programs Enforcement  
CERCLA Enforcement Division/GEB/OS-510

Quick Reference Fact Sheet

EPA has identified three areas in which changes will help improve and streamline the process for conducting settlement discussions:

- Negotiation Preparation;
- Management Review of Settlement Decisions; and
- Deadline Management.

This summary is intended for use as a supplement, not a replacement, to the official "Interim Guidance on Streamlining the CERCLA Settlement Decision Process," OSWER Directive #9835.4, issued February 12, 1987.

## Negotiation Preparation

**PRP Search.** Regions must complete potentially responsible parties (PRPs) searches no later than the year in which the site is proposed for the national priorities list (NPL). Both the timing and quality of the search are critical since inadequate information on the identity of PRPs can impede the PRPs' organization and negotiation.

**Notice and Information Exchange.** Regions should issue notice letters as early as possible. Notice letters should include 104(e) information requests and provide information as to other PRPs.

**Negotiation Strategy.** EPA should begin preparing draft settlement documents and a negotiation strategy as early as possible before the first negotiation session. The negotiation strategy should address:

- initial, alternative, and bottom-line positions on major issues of settlement objectives;
- a schedule for negotiations; and

- strategy and a schedule for action against PRPs if negotiations are unsuccessful.

## Review of Settlement Decisions

**Negotiation Team.** Comprised of representatives from the Regional Waste Management Division and the Office of Regional Council (ORC), Department of Justice (DOJ), Office of Enforcement (OE), Office of Waste Programs Enforcement (OWPE), and appropriate state representatives, the negotiation team is responsible for:

- proper scheduling and completion of PRP searches, notice, and information exchange;
- development of a comprehensive negotiations strategy in advance of negotiations;
- conducting negotiations; and

- raising appropriate issues to the Regional Administrator and Settlement Decision Committee for resolution.

The Regional Administrator, in consultation with DOJ, is the primary decision maker on CERCLA settlement issues.

Assistant Administrator Review Team. Chaired by the Assistant Administrator for the Office of Solid Waste and Emergency Response (AA-OSWER), the team provides overall policy direction on settlement concepts and resolves major policy issues specific to sites.

### **Deadline Management**

Section 122 of the Superfund Amendments and Reauthorization Act of 1986 (SARA) provides for

a 120-day negotiation period, contingent upon a good faith offer from the PRPs within 60 days for the Remedial Design/Action. Although negotiation extensions are not encouraged, Regional Administrators may grant extensions when a settlement is believed likely and imminent. The extension should not exceed 30 days. Negotiations beyond that 30-day period may be approved only by the AA-OSWER, and will be granted only in rare and extraordinary circumstances. Requests for such extensions may be made only by the Regional Administrator.

For more information or questions about this document, contact the Guidance and Evaluation Branch, OWPE, at FTS 475-6770.