

United States
Environmental Protection
Agency

Office of
Solid Waste and
Emergency Response



DIRECTIVE NUMBER: 9260.5-02A

TITLE: Superfund Internal Delegations of
Authority

APPROVAL DATE: 4/1/90

EFFECTIVE DATE: 4/1/90

ORIGINATING OFFICE: OSWER/OERR & OWPE

☒ **FINAL**

☐ **DRAFT**

STATUS:

REFERENCE (other documents):

Supersedes by providing clarification of
delegations 14-14A, 14-14-B, and 14-14C as
described in 9260.5-02, dated 9/24/87

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United States Environmental Protection Agency
Washington, DC 20460

OSWER Directive Initiation Request

1. Directive Number
9260.5-02A

2. Originator Information

Name of Contact Person Policy & Analysis	Mail Code OS-240	Office OSWER/OERR	Telephone Code 382-2182
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3. Title
Superfund Internal Delegations of Authority

4. Summary of Directive (include brief statement of purpose)

Supersedes 9260.5-02, dated 9/24/87 by providing clarification of Delegations 14-14-A, 14-14-B, and 14-14-C as described in previous version.

5. Keywords

CERCLA/SARA Superfund, delegations of authority

6a. Does This Directive Supersede Previous Directive(s)?

☐

No

☒

Yes

What directive (number, title)

9260.5-02A

b. Does It Supplement Previous Directive(s)?

☒

No

☐

Yes

What directive (number, title)

7. Draft Level

☐

A - Signed by AA/DAA

☒

B - Signed by Office Director

☐

C - For Review & Comment

☐

D - In Development

8. Document to be distributed to States by Headquarters?

☐

Yes

☒

No

This Request Meets OSWER Directives System Format Standards.

9. Signature of Lead Office Directives Coordinator

Betti C. VanEpps, Superfund Doc. Coord.

Date

4/18/90

10. Name and Title of Approving Official

Henry L. Longest II and Bruce Diamond, Prog. Dir.

Date

4/1/90

EPA Form 1315-17 (Rev. 5-87) Previous editions are obsolete.

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VE	DIRECTIVE	DIRECTIVE	DIRECTIVE



4/1/90: This document has been reissued as 9260.5-02A on 4/1/90 because a clarification has been added at Delegation #

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

SEP 24 1987

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

OSWER DIRECTIVE # 9260.5-02

SUBJECT: Superfund Internal Delegations of Authority

FROM: Henry L. Longest II, Director
Office of Emergency and Remedial Response

TO: Assistant Administrators
Regional Administrators
Regional Counsels
Waste Management Division Directors
Environmental Services Division Directors

Attached are the final new and revised delegations of authority implementing the provisions of SARA, most of which were approved by the Administrator on September 13, 1987.

Delegation 14-2-B, "Removal Actions Initially Expected to Cost Over \$2,000,000 and Continued Removal Actions After Obligations of \$2,000,000 (Pursuant to the Consistency Waiver)," and delegation 14-3, "Selection and Performance of Removal Actions Lasting More Than One Year," were approved on September 21, 1987. Delegation 14-36, "Lead Contaminated Soil," was approved August 14, 1987, and delegation 14-20-A, "Love Canal Cooperative Agreement for Maintenance of Properties," was approved on December 11, 1986.

Also attached are copies of delegations 14-14-A and 14-15, the only two Superfund delegations not revised. These are included so that you will have a complete set of current delegations.

You will be receiving official copies of these delegations distributed by the Office of Administration and Resources Management in 6-8 weeks.

Attachments

cc: Win Porter	Tim Fields
Gene Lucero	Steve Lingle
Marcia Williams	Russ Wyer
Ron Brand	Bruce Engelbert
Jim Makris	Clem Rastatter
Thad Juszczak	Chris Grundler
Liz LaPointe	Matt Hale
	Internal Delegations Workgroup

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**Not in original proposed package.

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

APR 1 1990

MEMORANDUM

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

SUBJECT: Clarification of Delegations of Authority 14-14-A,
14-14-B and 14-14-C under CERCLA

FROM: Bruce M. Diamond, Director
Office of Waste Programs Enforcement

Henry L. Longest II, Director
Office of Emergency and Remedial Response

TO: Regional Administrators, Regions I-X

This memorandum summarizes our past and future approach to implementing Delegations of Authority 14-14-A, 14-14B and 14-14C under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA).

14-14-A - Determinations of Imminent and Substantial Endangerment

Delegation 14-14-A requires that the Regional Administrators consult with the Director of the Office of Waste Programs Enforcement (OWPE) before making determinations of imminent and substantial endangerment. The Director of the Office of Emergency and Remedial Response (OERR) must be notified when such consultation occurs.

The assessment of imminent and substantial endangerment is generally made during the remedial investigation process and the process leading up to an Action Memorandum, and the finding is made in the decision document itself. The consultation occurs during the decision-making process and is therefore implicit in the delegation process for RODs and Action Memoranda. A separate consultation is not required for the determination of imminent and substantial endangerment. All determinations of imminent and substantial endangerment made prior to this date are deemed to have met the consultation requirements.

In addition, Headquarters issued guidance on endangerment assessments (OSWER Directive #9850.0, November 22, 1985) which has been relied on by the Regions in making determinations of imminent and substantial endangerment. This guidance has been superseded by the Risk Assessment Guidance for Superfund, (EPA/1-89/002, signed October 13, 1989). The new guidance is being relied on for determinations made after October 13, 1989. Use of these guidance documents is sufficient to constitute consultation of OWPE and OERR.

14-14-B - Administrative Actions Through Unilateral Orders

Delegation 14-14-B requires the Regional Administrators to consult with the Director of OWPE on their administrative actions, including, but not limited to, their issuance of unilateral orders. The Director of OERR must be notified when such consultation occurs.

The process for issuing Unilateral Administrative Orders involves coordination with the Regional Coordinators of the Compliance Branch of OWPE's CERCLA Enforcement Division. Issues concerning the issuance of these unilateral orders are brought to the Regional Coordinator's attention, and are elevated when necessary.

This consultation also takes place during monthly phone calls with the Regions in which they discuss negotiations, candidate sites and activities associated with issuing unilateral orders. It also takes place in the yearly strategy consultations which have culminated in a fiscal year 1989 and 1990 written strategy for issuance of Unilateral Administrative Orders for RD/RA.

In the future, we will continue the general process. As in the past, memoranda and conversations on actions at specific sites are not necessary. A separate consultation is required, however, for decisions not to issue a Unilateral Administrative Order for RD/RA (see "Use of CERCLA Section 106 Unilateral Enforcement for Remedial Design and Remedial Action: Strategy for Fiscal Year 1990", OSWER Directive # 9870.1A, February 14, 1990), and for \$2 million exemption requests.

The consultation requirement with OWPE has been met for all Unilateral Administrative Orders for actions issued prior to this date, and is waived for future unilateral orders, except as mentioned above.

14-14-C - Administrative Actions Through Consent Orders

Under delegation 14-14-C, the Regional Administrators must consult with the Director of OWPE on their administrative actions, including but not limited to, the issuance of Administrative Orders on Consent (except for RI/FS orders issued under 104. See memorandum from J. Winston Porter of March 16, 1987). Such advance concurrence can be waived by memorandum. The authority to nonconcur on the issuance of an Administrative Order on Consent, however, is retained by the Assistant Administrator of OSWER.

The process for issuing Administrative Orders on Consent for removal actions has involved general coordination with the Regional coordinators of the Compliance Branch of OWPE 's CERCLA Enforcement Division. Issues concerning the issuance of these Administrative Orders on Consent are brought to the Regional

Coordinator's attention, and are elevated when necessary. End of year summaries are prepared detailing the issuance of Administrative Orders on Consent for removal actions. This method of consultation is sufficient to constitute consultation with the Director of OWPE for concurrence. The consultation requirement with OWPE has been met for all Administrative Orders on Consent for removal actions issued prior to this date, and is waived for all future issuance of Administrative Orders on Consent.

cc: Waste Management Division Directors, Region I-X
Environmental Services Division Directors,
Regions I, VI, VII
Lisa Friedman, OGC
Glenn Unterberger, OECM
Russ Wyer, OERR
Hans Crump, OERR

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-1-A. Selection and Performance of Removal Actions
Costing Up to \$2,000,000

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to determine the necessity of and to select and perform removal actions costing up to \$2,000,000 where the action is expected to last up to one year.

2. TO WHOM DELEGATED. Regional Administrators.

3. LIMITATIONS.

a. Removal actions will not continue after \$2,000,000 has been obligated, unless authorized to continue under Delegation 14-2-A, "Removal Actions Initially Expected to Cost Over \$2,000,000 and Continued Removal Actions After Obligations of \$2,000,000," or Delegation 14-2-B, "Removal Actions Costing Over \$2,000,000 at NPL and Proposed-NPL Sites."

b. The Assistant Administrator for Solid Waste and Emergency Response or his/her designee must concur prior to the initiation of a removal action at non-NPL sites where the proposed action is on the List of Nationally Significant or Precedent-Setting Removal Action Categories.

4. REDELEGATION AUTHORITY. This authority may be redelegated to Division Directors, who may then redelegate to On-Scene Coordinators (On-Scene Coordinators may exercise this authority only for obligations not to exceed \$50,000 for initiating removal actions).

5. ADDITIONAL REFERENCES.

a. Sections 104, 121(d), and 121(e) of CERCLA.

b. National Contingency Plan, 40 CFR 300.

c. Superfund Removal directives.

d. The \$2,000,000 limit includes all extramural costs and Headquarters and Regional intramural costs, except for Section 104(b) studies and all enforcement costs.

e. List of Nationally Significant or Precedent-Setting Removal Categories.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-1-B. Superfund State Contracts and Cooperative Agreements
for Removal Actions

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), based on a determination that a State or political subdivision is capable of carrying out response actions, to enter into a contract or cooperative agreement, as appropriate, with such State or political subdivision to provide for the performance of removal actions and to obtain the necessary assurances for such removal actions. This authority includes approval and award authority.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. The authority to enter into a contract with States, for the purpose of this delegation, does not extend to procurement contracts.
4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.
5. ADDITIONAL REFERENCES.
 - a. Section 104(d)(1), 121(d) and 121(e) of CERCLA.
 - b. National Contingency Plan, 40 CFR 300.
 - c. State Participation in the Superfund Program, February 1984, Volumes I and II, as amended.
 - d. Directives issued by the Assistant Administrator for Solid Waste and Emergency Response.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-2-A. Removal Actions Initially Expected to Cost Over \$2,000,000 and
Continued Removal Actions After Obligations of \$2,000,000 (Pursuant
to the Emergency Waiver)

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to determine the necessity of and to select and perform removal actions to continue beyond \$2,000,000 when all of the following circumstances exist:

a. Where continued response actions are immediately required to prevent, limit, or mitigate an emergency; and

b. Where there is an immediate risk to public health or welfare or the environment; and

c. Where such assistance will not otherwise be provided on a timely basis.

2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response.

3. REDELEGATION AUTHORITY. This authority may be redelegated to the Office Director, Office of Emergency and Remedial Response.

4. ADDITIONAL REFERENCES.

a. Sections 104, 121(d), and 121(e) of CERCLA.

b. National Contingency Plan, 40 CFR 300.

c. Superfund Removal directives.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-2-B. Removal Actions Initially Expected to Cost Over \$2,000,000 and
Continued Removal Actions After Obligations of \$2,000,000 (Pursuant
to the Consistency Waiver)

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act as amended (CERCLA), to determine the necessity of and to select and perform removal actions to continue beyond \$2,000,000 when the continued response action is otherwise appropriate and consistent with the remedial action to be taken.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.
3. LIMITATIONS. The Regional Administrators may only exercise this authority at sites within their Regions specified by the Assistant Administrator for Solid Waste and Emergency Response.
4. REDELEGATION AUTHORITY. The Assistant Administrator for Solid Waste and Emergency Response may redelegate this authority to the Office Director, Office of Emergency and Remedial Response. Regional Administrators may not redelegate this authority.
5. ADDITIONAL REFERENCES.
 - a. Sections 104, 121(d), and 121(e) of CERCLA.
 - b. National Contingency Plan, 40 CFR 300.
 - c. Superfund Removal directives.

John L. Thomas
9/21/87

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-3. Selection and Performance of Removal Actions Lasting More Than One Year

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act as amended (CERCLA), to determine the necessity of and to select and perform removal actions:

- a. Where the action is expected to last more than one year; or
- b. Where the action was expected to last up to one year, but requires continuation beyond one year.

This authority applies only in the following circumstances:

i. Where continued response actions are immediately required to prevent, limit, or mitigate an emergency; and

Where there is an immediate risk to public health or welfare or the environment; and

Where such assistance will not otherwise be provided on a timely basis; or

ii. Where the continued response action is otherwise appropriate and consistent with the remedial action to be taken.

2. TO WHOM DELEGATED. Regional Administrators.

3. REDELEGATION AUTHORITY. These authorities may be redelegated to the Division Director level.

4. ADDITIONAL REFERENCES.

- a. Sections 104, 121(d), and 121(e) of CERCLA.
- b. National Contingency Plan, 40 CFR 300.
- c. Superfund Removal and Remedial directives.

for [signature]
9/21/87

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-4-A. State-Lead Studies and Investigations Related to Remedial Actions

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), based on a determination that a State or political subdivision is capable of performing studies and investigations to plan a remedial action, to enter into a cooperative agreement to perform such planning. This authority includes approval and award authority.

2. TO WHOM DELEGATED. Regional Administrators.

3. LIMITATIONS. This authority shall be exercised subject to the Administrator's management accountability system, and may only be exercised at sites which are contained in approved funding levels.

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Sections 104, 116, 117, and 121 of CERCLA.

b. Strategic Planning and Management System is the Administrator's management accountability system.

c. Directives issued by the Assistant Administrator for Solid Waste and Emergency Response.

d. State Participation in the Superfund Program, February 1984, Volumes I and II, as amended.

e. National Contingency Plan, 40 CFR 300.

f. 40 CFR 30 and 40 CFR 33, EPA grant regulations.

g. EPA's Assistance Administration Manual, 1984, as amended.

DELETED AND RESERVED FOR FUTURE USE:

14-4-B. (Formerly Selection of Initial Remedial Measures)

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-4-C. Superfund State Contracts and Cooperative Agreements to Implement
and Perform Remedial Actions

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to consult with the affected State or political subdivision in the selection of appropriate remedial action; to obtain the necessary assurances for remedial actions; based on a determination that a State or political subdivision is capable of carrying out a remedial action, to enter into a cooperative agreement with such State or political subdivision to perform remedial actions; to enter into a contract with such State or political subdivision in which EPA will perform the remedial action. This authority includes approval and award authority.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS.
 - a. The authority to enter into a contract with States, for the purpose of this delegation, does not extend to procurement contracts.
 - b. This authority shall be exercised subject to the Administrator's management accountability system, and approved funding levels.
 - c. This authority shall be exercised in accordance with Delegation 14-5, Selection of Remedial Actions.
4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.
5. ADDITIONAL REFERENCES.
 - a. Sections 104(a), 104(c), 104(d)(1), 116 and 121 of CERCLA.
 - b. State Participation in the Superfund Program, February, 1984, Volumes I and II as amended.
 - c. Strategic Planning and Management System is the Administrator's management accountability system.
 - d. Directives issued by the Assistant Administrator for Solid Waste and Emergency Response.
 - e. National Contingency Plan, 40 CFR 300.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-5. Selection of Remedial Actions

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to determine the necessity of, to select, and to perform the appropriate remedial action.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.
3. LIMITATIONS. Regional Administrators or their delegates may exercise this authority for sites or particular operable units at a site within their Regions listed in the Remedy Delegation Report issued periodically by the Assistant Administrator for Solid Waste and Emergency Response.
4. REDELEGATION AUTHORITY. The Assistant Administrator for Solid Waste and Emergency Response may redelegate this authority to the Office Director level. Regional Administrators may redelegate this authority to the Deputy Regional Administrator.
5. ADDITIONAL REFERENCES.
 - a. Sections 101(24), 104, 116, 118, 120, 121, and 126(b) of CERCLA.
 - b. Section 118(m) of the Superfund Amendments and Reauthorization Act (SARA).
 - c. Guidance on Delegation of Selection of Remedy Authority.
 - d. National Contingency Plan, 40 CFR 300.
 - e. Acquisition of property is covered in Delegation 14-30.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-6. Inspections, Sampling, Information Gathering, Subpoenas,
and Entry for Response

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act as amended (CERCLA), to enter any vessel, facility, establishment, place, property or location for the purposes of inspections, sampling, information gathering and response actions; to carry out inspections, sampling, and information gathering; to require the production of information and documents; to issue subpoenas; to issue compliance orders for production of information and documents; to issue compliance orders for entry and inspection; to obtain and execute warrants to support this authority; and to designate representatives of the Administrator to carry out inspections, sampling, information gathering, and response actions.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response, Assistant Administrator for Enforcement and Compliance Monitoring, and Regional Administrators.
3. LIMITATIONS.
 - a. Regional Administrators and the Assistant Administrator for Solid Waste and Emergency Response or their delegates must consult with the Assistant Administrator for Enforcement and Compliance Monitoring, or his/her designee, prior to issuing compliance orders regarding information gathering or compliance orders for entry and inspection, or issuing subpoenas, unless or until such consultation authority is waived by memorandum.
 - b. The Assistant Administrator for Solid Waste and Emergency Response or his/her delegatee must consult with the Assistant Administrator for Enforcement and Compliance Monitoring or his/her designee prior to obtaining warrants.
 - c. The Assistant Administrator for Solid Waste and Emergency Response and the Assistant Administrator for Enforcement and Compliance Monitoring or their delegates must consult with the appropriate Regional Administrator or his/her designee prior to exercising these authorities.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES.
 - a. Sections 104(e), 109(a), 109(b) and 122(e) of CERCLA.
 - b. National Contingency Plan, 40 CFR 300.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-7. Combination of Noncontiguous Facilities for Response Purposes

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to treat two or more noncontiguous facilities that are related geographically or on the basis of threat as one for purposes of response actions.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.
3. REDELEGATION AUTHORITY. This authority may be redelegated.
4. ADDITIONAL REFERENCES.
 - a. Section 104(d)(4) of CERCLA.
 - b. Guidance on combination of noncontiguous facilities can be found in 48 FR 40663 September 8, 1983 and 49 FR 37076 September 21, 1984.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-8-A. Federal-Lead Studies and Investigations Related to Response Actions

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability, Act as amended (CERCLA), to make determinations as to the necessity and appropriateness of studies and investigations necessary or appropriate to plan and direct response actions, with the exception of actions authorized under Delegation 14-4-A, "State-Lead Studies and Investigations Related to Remedial Actions," and to perform such studies and investigations in consultation with the State.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.
3. LIMITATION. This authority shall be exercised subject to the Administrator's management accountability system, and may be exercised only at sites which are contained in approved funding levels.
4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.
5. ADDITIONAL REFERENCES.
 - a. Sections 104, 116, 117, and 121 of CERCLA.
 - b. National Contingency Plan, 40 CFR 300.
 - c. State Participation in the Superfund Program, February 1984, Volumes I and II, as amended.
 - d. Directives issued by the Assistant Administrator for Solid Waste and Emergency Response.
 - e. Strategic Planning and Management System is the Administrator's management accountability system.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-8-B. Studies and Investigations Related to Cost Recovery and Enforcement
Decisions; Special Notice

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to make determinations as to the necessity and appropriateness of studies and investigations related to the recovery of response costs and the enforcement of the provisions of this Act, and to undertake such studies and investigations; and to make decisions, determinations, findings, notifications and non-binding allocations of responsibility under Section 122.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response, Assistant Administrator for Enforcement and Compliance Monitoring, and Regional Administrators.
3. REDELEGATION AUTHORITY. This authority may be redelegated.
4. ADDITIONAL REFERENCES.
 - a. Sections 104, 106, 107 and 122 of CERCLA.
 - b. All applicable Agency guidance and directives.
 - c. See Delegation 14-6 for issuance of Section 104(e) requests.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-9. Claims Asserted Against the Fund

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to receive, evaluate, make determinations and preauthorize claims asserted against the Hazardous Substance Superfund. This authority is to include determining the amount of any award, authorizing payment, and making all other determinations necessary to process such claims.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response.
3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.
4. ADDITIONAL REFERENCES.
 - a. Sections 111(a), 111(e), 112, and 122 of CERCLA.
 - b. National Contingency Plan, 40 CFR 300.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-10-A. State Technical Assistance

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to provide to a State or political subdivision acting on behalf of the Agency, technical assistance in the administration and enforcement of any contract (or subcontract) for response actions.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.
3. LIMITATIONS. Regional Administrators or their delegates are authorized to expend extramural (contract) funds for technical assistance only to the extent that funds are contained in approved funding levels.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES.
 - a. Section 104(d)(3) of CERCLA.
 - b. Directives issued by the Assistant Administrator for Solid Waste and Emergency Response
 - c. State Participation in the Superfund Program, February, 1984, Volumes I and II as amended.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-10-B. State Legal Assistance

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to provide to a State or political subdivision acting on behalf of the Agency, legal assistance in the administration and enforcement of any contract (or subcontract) for response actions and to request the Attorney General to intervene in any civil actions involving the enforcement of such contract or subcontract.
2. TO WHOM DELEGATED. Assistant Administrator for Enforcement and Compliance Monitoring and Regional Administrators.
3. LIMITATIONS. The Assistant Administrator for Enforcement and Compliance Monitoring or his/her delegatee must notify the Assistant Administrator for Solid Waste and Emergency Response, the General Counsel, and the appropriate Regional Administrator or their designees prior to exercising this authority.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES. Section 104(d)(3) of CERCLA.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-11. Credit for State Expenditures

1. AUTHORITY. Pursuant to Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to grant the State a credit against its cost share for response expenses incurred by the State (or as appropriate, a political subdivision) in accordance with the provisions of sections 104(c) and 104(d).
2. TO WHOM DELEGATED. Regional Administrators.
3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.
4. ADDITIONAL REFERENCES.
 - a. Sections 104(c), and 104(d)(1)(C) of CERCLA.
 - b. State Participation in the Superfund Program, February, 1984, Volumes I and II as amended.
 - c. Directives issued by the Assistant Administrator for Solid Waste and Emergency Response.
 - d. Fiscal directives issued by the Comptroller.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-12. Civil Judicial Enforcement Actions

1. AUTHORITY. To request the Attorney General to appear and represent the Agency in any civil enforcement actions and to intervene in any civil enforcement actions instituted under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA); to request the Attorney General to decline to prosecute a previously referred civil enforcement action; and to request the Attorney General to initiate an appeal and represent the Agency in such an appeal.

2. TO WHOM DELEGATED. Assistant Administrator for Enforcement and Compliance Monitoring and the General Counsel.

3. LIMITATIONS.

a. The Assistant Administrator for Enforcement and Compliance Monitoring or his/her delegatee must notify the Assistant Administrator for Solid Waste and Emergency Response and the appropriate Regional Administrator or their designees when a case is referred to the Attorney General and when an appeal is formally initiated.

b. The General Counsel or his/her delegatee may only exercise this authority in regard to appeals.

c. Any exercise of the appeal authority will be done jointly by the General Counsel and the Assistant Administrator for Enforcement and Compliance Monitoring or their delegates.

4. REDELEGATION AUTHORITY. The authority to request the Attorney General to decline to prosecute a previously referred civil enforcement action may be redelegated to the Division Director level. The other authorities cited in paragraph 1 above may be redelegated.

5. ADDITIONAL REFERENCES.

a. Memorandum of Understanding between the Agency and the Department of Justice.

b. Sections 104, 106, 107, 109, and 122 of CERCLA.

c. See delegation 14-13-C, entitled "Emergency TROs," for Regional Administrators' authority to make direct referrals of requests for emergency CERCLA Temporary Restraining Orders.

d. All applicable Agency guidance and directives.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-13-A. Criminal Enforcement Actions

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to cause criminal matters to be referred to the Department of Justice for assistance in field investigation, for initiation of a grand jury investigation, or for prosecution under CERCLA; to authorize payment of awards up to \$10,000 to any individual who provides information leading to the arrest and conviction of any person for a violation subject to a criminal penalty under CERCLA.
2. TO WHOM DELEGATED. The Assistant Administrator for Enforcement and Compliance Monitoring.
3. LIMITATIONS. The amount of CERCLA funds to be made available each fiscal year for the payment of the awards as authorized by this delegation is limited to an amount agreed upon annually by the Assistant Administrator for Enforcement and Compliance Monitoring and the Assistant Administrator for Solid Waste and Emergency Response.
4. REDELEGATION AUTHORITY. The authority to refer cases may be redelegated. The authority to authorize payment of awards may be redelegated to the Senior Enforcement Counsel for Criminal Enforcement.
5. ADDITIONAL REFERENCES. Sections 103(b)(3), 103(c), 103(d), and 109(d) of CERCLA.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-13-B. Concurrence in Settlement of Civil Judicial Actions

1. AUTHORITY. To exercise the Agency's concurrence in the settlement of civil judicial enforcement actions under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), and to request the Attorney General to amend a consent decree issued under CERCLA.

2. TO WHOM DELEGATED. Regional Administrators.

3. LIMITATIONS.

a. Regional Administrators may exercise the Agency's concurrence authority in settlement of Regionally-initiated CERCLA section 104/107 recovery actions where the total response costs at the facility do not exceed \$500,000, excluding interest.

b. For all cases initiated by the Assistant Administrator for Solid Waste and Emergency Response, the Regional Administrator or delegatee must obtain the concurrence of the Assistant Administrators for Enforcement and Compliance Monitoring and Solid Waste and Emergency Response or their designees before exercising this authority. The Assistant Administrators for Enforcement and Compliance Monitoring and Solid Waste and Emergency Response or their designees may waive the concurrence requirement by memorandum on a Region-by-Region basis.

c. For cases initiated by the Regional Administrator other than those identified in paragraph 3.a of this delegation (in which the Regional Administrator concurs for the Agency), the Regional Administrator or delegatee must obtain the concurrence of the Assistant Administrators for Enforcement and Compliance Monitoring and Solid Waste and Emergency Response or their designees before exercising this authority. The Assistant Administrators for Enforcement and Compliance Monitoring and Solid Waste and Emergency Response or their designees may waive the concurrence requirement by memorandum on a Region-by-Region basis.

d. Six months after the Administrator's signature of this delegation, and every six months thereafter, the Assistant Administrators for Enforcement and Compliance Monitoring and Solid Waste and Emergency Response, or their designees, will review each Region's experience in settlement of civil judicial actions and, based upon that review, will consider jointly waiving or modifying any advance concurrence requirement on a Region-by-Region basis. The Administrator shall be apprised of the status of the advance concurrence requirement upon completion of each review.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-13-B. Concurrence in Settlement of Civil Judicial Actions (cont')

4. REDELEGATION AUTHORITY. The authority to request the Attorney General to amend a consent decree issued under CERCLA may be redelegated to the Division Director level. The other authorities cited in paragraph 1. above may be redelegated.

5. ADDITIONAL REFERENCES.

- a. Sections 104, 106, 107, 109, and 122 of CERCLA.
- b. All applicable Agency guidance and directives.
- c. For actions including 31 USC 3711 and its applicable regulations, see delegations covering claims of EPA found in Chapter 1 of this Manual.
- d. Settlements under CERCLA section 122(g) are covered by delegation 14-14-E, "De Minimis Settlements."

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-13-C. Emergency TROs

1. AUTHORITY. To refer to the Attorney General requests for emergency Temporary Restraining Orders under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA).
2. TO WHOM DELEGATED. Regional Administrators and the Assistant Administrator for Enforcement and Compliance Monitoring.
3. LIMITATIONS.
 - a. The Regional Administrator or his/her delegatee must notify the Assistant Administrator for Enforcement and Compliance Monitoring and the Assistant Administrator for Solid Waste and Emergency Response or their designees when exercising this authority.
 - b. The Assistant Administrator for Enforcement and Compliance Monitoring or his/her delegatee must notify the appropriate Regional Administrator and the Assistant Administrator for Solid Waste and Emergency Response or their designees when exercising this authority.
4. REDELEGATION AUTHORITY. The Assistant Administrator for Enforcement and Compliance Monitoring may redelegate this authority. The authority delegated to Regional Administrators may be redelegated to the On-Scene Coordinator level.
5. ADDITIONAL REFERENCES.
 - a. Memorandum of Understanding between the Agency and the Department of Justice.
 - b. Sections 106(a), 106(b) and 107 of CERCLA.
 - c. For referral of other civil actions under CERCLA, see Delegation 14-12, "Civil Judicial Enforcement Actions."

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THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-14-A. Determinations of Imminent and Substantial Endangerment

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), to make determinations that there may be an imminent and substantial endangerment to public health or welfare or the environment.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. This authority shall be exercised subject to directives issued by the Assistant Administrator for Solid Waste and Emergency Response. Regional Administrators must consult with the Assistant Administrator for Solid Waste and Emergency Response or his/her designee when exercising this authority.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES. Section 106(a) of CERCLA.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-14-B. Administrative Actions Through Unilateral Orders

1. AUTHORITY. After giving notice to the affected State, to take administrative action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), including, but not limited to, issuing such unilateral orders as may be necessary to protect public health and welfare and the environment.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. Regional Administrators or their delegates must consult with the Assistant Administrator for Solid Waste and Emergency Response or his/her designee when exercising this authority.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES.
 - a. Sections 104, 106, and 122 of CERCLA.
 - b. Applicable Agency guidance and OSWER directives.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-14-C. Administrative Actions Through Consent Orders

1. AUTHORITY. After giving notice to the affected state, to take administrative action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), including, but not limited to, issuing such orders on consent as may be necessary to protect public health and welfare and the environment.

2. TO WHOM DELEGATED. Regional Administrators.

3. LIMITATIONS.

a. Regional Administrators or their delegates must obtain the advance concurrence of the Assistant Administrator for Solid Waste and Emergency Response or his/her designee before exercising any of the above authorities.

b. The Assistant Administrator for Solid Waste and Emergency Response or his/her designee may waive advance concurrence requirements by memorandum.

c. This authority does not include recovery of response costs under CERCLA Section 122(h) or settlements with de minimis parties under CERCLA Section 122(g).

4. REDELEGATION AUTHORITY. This authority may be redelegated.

5. ADDITIONAL REFERENCES.

a. Sections 104, 106, and 122 of CERCLA.

b. All applicable Agency guidance and directives.

c. Authority to enter into or exercise Agency concurrence authority for non-judicial cost recovery agreements or administrative orders is delegated in 14-14-D, "Cost Recovery Non-Judicial Agreements and Administrative Consent Orders."

d. Authority to enter into or exercise Agency concurrence authority in de minimis settlements under CERCLA Section 122(g) is delegated in Delegation 14-14-E, "De Minimis Settlements."

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-14-D. Cost Recovery Non-Judicial Agreements and Administrative
Consent Orders

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to enter into or exercise Agency concurrence in non-judicial agreements or administrative orders for the recovery of costs of response.

2. TO WHOM DELEGATED. Regional Administrators.

3. LIMITATIONS.

a. For settlements where the total response costs at the facility exceed \$500,000 (excluding interest) and the settlement compromises a claim of the United States, Regional Administrators or their delegates must consult with the Assistant Administrator for Solid Waste and Emergency Response and the Assistant Administrator for Enforcement and Compliance Monitoring or their designees before exercising any of the above authorities, unless such consultation is waived by memorandum.

b. This authority does not include de minimis settlements under CERCLA Section 122(g).

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Branch Chief level.

5. ADDITIONAL REFERENCES.

a. Sections 104, 107, and 122 of CERCLA.

b. All applicable Agency guidance and directives.

c. Authority to enter consent orders for administrative actions is delegated in 14-14-C, "Administrative Actions Through Consent Orders."

d. Authority to enter into or exercise Agency concurrence authority in de minimis settlements under CERCLA Section 122(g) is delegated in Delegation 14-14-E, "De Minimis Settlements."

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-14-E. De Minimis Settlements

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to enter into or exercise Agency concurrence in de minimis settlements under Section 122(g).

2. TO WHOM DELEGATED. Regional Administrators.

3. LIMITATIONS.

a. Regional Administrators or their delegates must obtain the advance concurrence of the Assistant Administrator for Enforcement and Compliance Monitoring and the Assistant Administrator for Solid Waste and Emergency Response, or their designees, for settlements under Section 122(g), unless such concurrence is waived by memorandum.

b. The Assistant Administrator for Enforcement and Compliance Monitoring and the Assistant Administrator for Solid Waste and Emergency Response or their designees must either concur, non-concur or request additional time for review within 10 days of receipt of the request for concurrence. If the Assistant Administrator for Enforcement and Compliance Monitoring and the Assistant Administrator for Solid Waste and Emergency Response or their designees do not concur, non-concur, or request additional time, the Regional Administrator may enter into or exercise Agency concurrence in de minimis settlements without the concurrence of the Assistant Administrator for Enforcement and Compliance Monitoring and the Assistant Administrator for Solid Waste and Emergency Response.

c. Six months after the Administrator's signature of this delegation, the Assistant Administrator for Enforcement and Compliance Monitoring and the Assistant Administrator for Solid Waste and Emergency Response will review each Region's experience settling de minimis cases using this Section 122(g) authority and, based upon that review, will consider waiving or modifying any advance concurrence requirement on a Region-by-Region basis.

4. REDELEGATION AUTHORITY. This authority may be redelegated.

5. ADDITIONAL REFERENCES.

a. Sections 106, 107 and 122 of CERCLA.

b. All applicable Agency guidance and directives.

c. Authority to recover costs other than in de minimis settlements is delegated in 14-14-D, "Cost Recovery Non-Judicial Agreements and Administrative Consent Orders," and in 14-13-B, "Concurrence in Settlement of Civil Judicial Actions."

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-15. Guidelines for Use of Imminent Hazard,
Enforcement and Emergency Response Authorities

1. AUTHORITY. To establish, modify and publish guidelines for using the imminent hazard, enforcement and emergency response authorities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and other existing statutes administered by the Agency.
2. TO WHOM DELEGATED. Assistant Administrator for Enforcement and Compliance Monitoring.
3. LIMITATIONS. The Assistant Administrator for Enforcement and Compliance Monitoring will obtain the advance concurrence of the Assistant Administrator for Solid Waste and Emergency Response before exercising this authority.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES. Section 106(c) of CERCLA.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-16. Demand Letters

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to prepare, sign and issue demand letters to responsible parties.
2. TO WHOM DELEGATED. Assistant Administrator for Enforcement and Compliance Monitoring, Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.
3. REDELEGATION AUTHORITY. This authority may be redelegated.
4. ADDITIONAL REFERENCES.
 - a. Sections 104, 106, 107, 109, 113, and 122 of CERCLA.
 - b. All applicable Agency guidance and directives.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-17-A. National Priorities List: Federal Register Submission of
Proposed and Final Additions and Deletions

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA):

a. To sign and submit to the Federal Register proposed and final rulemaking documents which add sites to the National Priorities List (NPL) of hazardous waste sites, and to sign and submit to the Federal Register proposed and final notices which delete sites from the NPL.

b. To sign and submit to the Federal Register proposed and final rulemaking documents which announce NPL eligibility policy.

c. To sign and submit to the Federal Register notices of intent to delete sites from the National Priorities List.

2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.

3. LIMITATIONS.

a. Assistant Administrator for Solid Waste and Emergency Response or his/her delegatee may exercise authorities 1.a. and 1.b. only.

b. Regional Administrators may exercise authority 1.c. only. Before exercising this authority, the Regional Administrator must obtain the concurrence of the Assistant Administrator for Solid Waste and Emergency Response or designee.

4. REDELEGATION AUTHORITY.

a. Authority 1.a. may be redelegated only to the Deputy Assistant Administrator for Solid Waste and Emergency Response.

b. Authority 1.b. and 1.c. may not be redelegated.

5. ADDITIONAL REFERENCES.

a. Sections 105(a)(8)(B), 105(g)(2), 118, and 125(b) of CERCLA.

b. Section 118(p) of the Superfund Amendments and Reauthorization Act (SARA).

c. National Contingency Plan, 40 CFR 300.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-17-B. National Priorities List: Restoring Sites, Petitions to Assess,
Evaluations of Serious Threats, and Redetermining Priority

1. AUTHORITY. Pursuant to Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA):

a. To restore sites listed as a "Site Cleaned Up to Date" to the NPL without the application of hazard ranking whenever there is a significant release of hazardous substances, pollutants or contaminants from the site.

b. To conduct Preliminary Assessments of a release or threatened release of hazardous substances, pollutants, or contaminants in response to petitions, and upon finding that the release or threatened release may pose a threat to human health or the environment, to evaluate the release or threatened release with the hazard ranking system.

c. To evaluate releases or threatened releases, where health assessments under section 104(i) indicate such releases may pose a serious threat to human health or the environment, with the hazard ranking system.

d. To determine whether the site shall be placed on the NPL or accorded a higher priority on the NPL as a result of evaluations under section 104(i)(6)(H).

2. TO WHOM DELEGATED. The Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.

3. LIMITATIONS.

a. The Assistant Administrator for Solid Waste and Emergency Response may exercise authorities 1.a and 1.d. only.

b. Regional Administrators or their delegates may exercise authorities 1.b and 1.c only.

4. REDELEGATION AUTHORITY.

a. The Assistant Administrator for Solid Waste and Emergency Response may not redelegate this authority.

b. Regional Administrators may redelegate this authority.

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COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-17-B. National Priorities List: Restoring Sites, Petitions to Assess,
Evaluations of Serious Threats, and Redetermining Policy (cont')

5. ADDITIONAL REFERENCES.

a. Sections 104(i), 105(e), 105(a)(8)(B), 105(d), 105(g)(2), 118, and 125(b) of CERCLA. [Note that CERCLA section 104(j) is printed in the middle of section 104(i). Sections 104(i)(6)(h) can be found on page 28 of Senate Print 99-217, "The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Superfund) (P.L. 96-510), as amended by the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499)," December 1986.]

b. Section 118(p) of the Superfund Amendments and Reauthorization Act (SARA).

c. National Contingency Plan, 40 CFR 300.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-18-B. Hazardous Substance Research

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to carry out a program of hazardous substance research; to approve grants and cooperative agreements for hazardous substance research, and to conduct and support such research through contracts, as authorized under section 311(c) of CERCLA.
2. TO WHOM DELEGATED. Assistant Administrator for Research and Development.
3. LIMITATIONS. The Assistant Administrator for Research and Development or delegatee will exercise this authority in accordance with plans and priorities developed in consultation with the Assistant Administrator for Solid Waste and Emergency Response or designee.
4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.
5. ADDITIONAL REFERENCES. Section 311(c) of CERCLA.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-19. Contractor Indemnification

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to approve the indemnification of response action contractors. This authority is to include authorizing payments.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response.
3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.
4. ADDITIONAL REFERENCES.
 - a. Section 119 of CERCLA.
 - b. Delegation of contract award authority is covered in Delegation 1-2, "Designation of Agency Procurement Executive," in Chapter 1 of the Delegations Manual.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-20-A. Love Canal Cooperative Agreement for Maintenance of Properties

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to enter into a cooperative agreement with the State of New York for the maintenance of all properties within the Love Canal Emergency Declaration Area that have been acquired by any public agency or authority of the State.
2. TO WHOM DELEGATED. Regional Administrator for Region II.
3. REDELEGATION AUTHORITY. This authority may not be redelegated.
4. ADDITIONAL REFERENCES. Section 312(d) of CERCLA.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-20-B. Love Canal Cooperative Agreements and Grants

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act as amended (CERCLA), to enter into a cooperative agreement with a public agency or authority of the State of New York, in which such Agency agrees to take title to the acquired properties, and to approve grants to the State of New York or a public agency for the acquisition of private property in the Love Canal Emergency Declaration Area.
2. TO WHOM DELEGATED. Regional Administrator, Region II.
3. REDELEGATION AUTHORITY. This authority may not be redelegated.
4. ADDITIONAL REFERENCES. Section 312 of CERCLA.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-26. Federal Lien

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to file notice of and assert either a federal lien upon real property and any rights to such property, or a maritime lien in favor of the United States.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. Regional Administrators or their delegates must notify the Assistant Administrator for Solid Waste and Emergency Response or his/her designee when exercising the above authority.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES.
 - a. Sections 107(1) and (m) of CERCLA.
 - b. Delegation 14-12, "Civil Judicial Enforcement Actions."

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-27. Petitions for Reimbursement

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to receive, evaluate, and make determinations regarding petitions for reimbursement of the costs of abatement actions incurred in carrying out a section 106 order. This authority includes authorizing payment.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response.
3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.
4. ADDITIONAL REFERENCES.
 - a. Section 106 of CERCLA.
 - b. Applicable Agency guidance and directives.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-28. Federal Agency Hazardous Waste Compliance Docket

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to establish and maintain a Federal Agency Hazardous Waste Compliance Docket.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.
3. REDELEGATION AUTHORITY. This authority may be redelegated.
4. ADDITIONAL REFERENCES. Section 120 of CERCLA.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-29. Investigations and Evaluations of Employment Shifts and Loss

1. AUTHORITY. Pursuant to section 110(e) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA) and Section 554, Title 5 of the United States Code, to conduct investigations and evaluations of potential loss or shifts of employment, provide for public hearings, and make findings of fact concerning threatened plant closures or reductions in employment.

2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response, Assistant Administrator for Enforcement and Compliance Monitoring, and Regional Administrators.

3. LIMITATIONS.

a. The authority delegated to the Assistant Administrator for Solid Waste and Emergency Response is limited to conducting investigations and evaluations.

b. The authority delegated to the Assistant Administrator for Enforcement and Compliance Monitoring is limited to providing for public hearings and to making findings of fact subject to the Administrative Procedures Act.

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Section 110(e) of CERCLA.

b. Section 554, Title 5 of the United States Code.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-30. Acquisition of Property

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA):

a. To determine whether real property affected by a Federal- or State-lead Fund-financed response shall be acquired;

b. To authorize the acquisition of appropriate interest in the real property; and

c. To obtain agreement from the affected State to accept transfer of a property interest acquired by EPA following completion of the response.

2. TO WHOM DELEGATED. 1.a. is delegated to the Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators; 1.b. is delegated to the Assistant Administrator for Solid Waste and Emergency Response with regard to EPA acquisitions and to the Regional Administrators with regard to acquisitions under cooperative agreements; 1.c. is delegated to Regional Administrators.

3. LIMITATIONS.

a. Before making a determination that real property shall be acquired by EPA or pursuant to a cooperative agreement for response action, including a removal, remedial planning activity, or remedial action, the Assistant Administrator for Solid Waste and Emergency Response or his/her delegatee must obtain the advance concurrence of the General Counsel or his/her designee, and Regional Administrators or their delegates must obtain the advance concurrence of the Assistant Administrator for Solid Waste and Emergency Response and the General Counsel or their designees. The Assistant Administrator for Solid Waste and Emergency Response and the General Counsel or their designees may waive the advance concurrence requirement by memorandum.

b. Before EPA acquires an interest in real property for the purpose of a response action, including a removal, remedial planning activity, or remedial action, the Assistant Administrator for Solid Waste and Emergency Response or his/her delegatee must obtain the advance concurrence of the General Counsel or his/her designee. The General Counsel or his/her designee may waive the advance concurrence requirement by memorandum.

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THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
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14-30. Acquisition of Property (cont')

4. REDELEGATION AUTHORITY. The Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators may redelegate authority to the Division Director level.

5. ADDITIONAL REFERENCES.

- a. Section 104 of CERCLA.
- b. 40 CFR Part 30, Federal Procurement Practices.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-31. Administrative Penalty Actions

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to make determinations of violations under section 109, to assess penalties, to issue notices, orders or complaints, and to compile the administrative record upon which the violation was found or the penalty was imposed; and to negotiate and sign consent orders memorializing settlements under Section 109 between the Agency and respondents.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. Regional Administrators or their delegates must notify the Assistant Administrator for Solid Waste and Emergency Response or his/her designee when exercising any of the above authorities.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES.
 - a. All applicable Agency guidance and directives.
 - b. Section 109 of CERCLA.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-32. Administrative Enforcement: Agency Representation at Hearings

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to represent the Agency in administrative enforcement actions following issuance of an administrative complaint or order under CERCLA Section 109 and/or 5 U.S.C. Section 554; to negotiate consent agreements between the Agency and respondents resulting from such enforcement actions; to initiate an administrative appeal from an administrative determination, and to represent the Agency in such appeals.
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. This authority may only be exercised after the alleged violator files an answer, or fails to file an answer within the appropriate timeframe.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES.
 - a. All applicable Agency guidance and directives.
 - b. Section 109 of CERCLA.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-33. Administrative Enforcement: Issuance of Final Orders

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to issue final orders resulting from administrative enforcement actions under Section 109 of CERCLA.

2. TO WHOM DELEGATED. The Chief Judicial Officer.

3. LIMITATIONS.

a. The Chief Judicial Officer and delegates may not be employed by the Office of Enforcement and Compliance Monitoring or by any program office with responsibility for taking enforcement actions against the type of violation at issue in the involved proceeding.

b. If this authority is redelegated to other Judicial Officers, decisions rendered pursuant to redelegated authority must be with the written concurrence of the Chief Judicial Officer.

4. REDELEGATION AUTHORITY. This authority may be redelegated in individual proceedings to other Judicial Officers. Nothing in this delegation shall preclude the Chief Judicial Officer from referring any motion or other matter in any proceeding to the Administrator when the Chief Judicial Officer determines referral to be appropriate.

5. ADDITIONAL REFERENCES.

- a. Section 109 of CERCLA.
- b. Delegation 1-38, "Adjudicatory Proceedings."
- c. All applicable Agency guidance and directives.

THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT (SARA)14-34. Waiver of Permit Requirements in the State of Illinois

1. AUTHORITY. Pursuant to the Superfund Amendments and Reauthorization Act (SARA), to approve or deny a waiver by the State of Illinois of any permit requirement under Subtitle C of the Solid Waste Disposal Act, which would otherwise be applicable to State remedial actions involving onsite mobile incinerator units.

2. TO WHOM DELEGATED. Regional Administrator, Region 5, and the Assistant Administrator for Solid Waste and Emergency Response.

3. LIMITATIONS.

a. Statutory conditions must be met regarding prohibition of offsite transfer, protectiveness of the remedial action, and public participation.

b. Waiver authority terminates on October 17, 1989 unless the State demonstrates that operation of mobile incinerators in the State has sufficiently protected public health and the environment and is consistent with the criteria required for a permit under Subtitle C of the Solid Waste Disposal Act.

c. The Assistant Administrator for Solid Waste and Emergency Response is authorized to determine whether the State has met the requirements of section 118(i)(3) of SARA.

4. REDELEGATION AUTHORITY. This authority may not be redelegated.

5. ADDITIONAL REFERENCES. Section 118(i) of SARA.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-35. List of Hazardous Substances and Toxicological Profiles

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA):

a. In cooperation with the Administrator of the Agency for Toxic Substances and Disease Registry (ATSDR), to prepare and revise periodically a prioritized list of hazardous substances that are most commonly found at facilities on the National Priorities List and that pose the most significant potential threat to human health;

b. In cooperation with the Administrator of ATSDR, to develop guidelines for the development of toxicological profiles for each of the listed hazardous substances.

2. TO WHOM DELEGATED. Assistant Administrator for Pesticides and Toxic Substances.

3. LIMITATIONS. The Assistant Administrator for Pesticides and Toxic Substances or his/her delegatee must consult with the Assistant Administrator for Solid Waste and Emergency Response and with the Assistant Administrator for Research and Development or their designees when exercising the authorities specified in paragraphs 1.a and 1.b.

4. REDELEGATION. This authority may be redelegated.

5. ADDITIONAL REFERENCES. Sections 104(i)(2) and (3) of CERCLA.

*[Note that CERCLA section 104(j) is printed in the middle of Section 104(i). Sections 104(i)(2) and (3) can be found on pages 24-25 of Senate Print 99-217, "The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) (P.L. 96-510), as amended by the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499)," December 1986.]

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-36. Lead Contaminated Soil

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA):

a. to designate one to three different metropolitan areas and to allocate among them up to \$15 million for pilot program activities described in 1.b;

b. to approve, award, and administer grant(s) or cooperative agreement(s) to a State, local government or other recipient to carry out a pilot program for removal, decontamination, or other action with respect to lead-contaminated soil.

2. TO WHOM DELEGATED. The authority in 1.a is delegated to the Assistant Administrator for Solid Waste and Emergency Response. The authority in 1.b is delegated to Regional Administrators responsible for the metropolitan areas designated in 1.a.

3. LIMITATIONS. Prior to the award of a grant or cooperative agreement under the authority in 1.b, Regional Administrators or their delegates must obtain the advance concurrence of the Assistant Administrator for Solid Waste and Emergency Response or his/her designee.

4. REDELEGATION AUTHORITY. The Assistant Administrator for Solid Waste and Emergency Response (AA/OSWER) may redelegate the authority in 1.a to the Director, Office of Emergency and Remedial Response. Regional Administrators may redelegate the authority in 1.b to the Division Director level.

4. ADDITIONAL REFERENCES.

a. Section 111(a) of CERCLA.

b. 40 CFR 30 and 40 CFR 33, EPA grant regulations.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-37. Reimbursement to Local Governments

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to receive, evaluate, and make determinations regarding requests for reimbursement to local community authorities for expenses incurred in carrying out temporary emergency measures in response to releases or threatened releases of hazardous substances, pollutants, or contaminants. This authority is to include authorizing payment.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response.
3. LIMITATIONS. During the five-fiscal-year period beginning October 1, 1986, not more than 0.1 percent of the total amount appropriated from the Fund may be used for such reimbursements.
4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.
5. ADDITIONAL REFERENCES.
 - a. Sections 111(c)(11) and 123 of CERCLA.
 - b. Agency regulations on reimbursement to local governments for temporary emergency measures.

SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT (SARA)14-38. EPA Role in Department of Defense Environmental Restoration Program

1. AUTHORITY. Pursuant to Title 10, United States Code, Chapter 160, as amended by Section 211 of the Superfund Amendments and Reauthorization Act of 1986 (SARA):

a. To provide consultation to the Secretary of Defense or his/her designee(s) to carry out a program of environmental restoration at facilities under his/her jurisdiction.

b. To provide cooperation and consultation to the Secretary of Defense or his/her designee(s) to carry out a program of research, development and demonstration with respect to hazardous wastes.

c. To prepare health advisories at the request of the Secretary of Defense, using such sums transferred from amounts appropriated to the Department of Defense.

d. To receive and comment on notices of release and proposals for response actions under Chapter 160, § 2705, Department of Defense environmental restoration activities.

2. TO WHOM DELEGATED. The Assistant Administrator for Solid Waste and Emergency Response, the Assistant Administrator for Research and Development, the Assistant Administrator for Water, and Regional Administrators.

3. LIMITATIONS.

a. The Assistant Administrator for Solid Waste and Emergency Response or his/her delegatee may exercise authorities 1.a, 1.b and 1.d only.

b. Regional Administrators or their delegates may exercise authorities 1.a and 1.d only.

c. The Assistant Administrator for Research and Development or his/her delegates may exercise authority 1.b only, and shall consult with the Assistant Administrator for Solid Waste and Emergency Response or his/her designee when providing consultation to the Secretary of Defense under this authority.

d. The Assistant Administrator for Water or his/her delegatee may exercise authority 1.c only, and shall consult with the Assistant Administrator for Research and Development or his/her designee when preparing health advisories under this authority.

4. REDELEGATION AUTHORITY. The above authorities may be redelegated.

DELEGATIONS MANUAL

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THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT

14-38. EPA Role in Department of Defense Environmental
Restoration Program (cont')

5. ADDITIONAL REFERENCES.

- a. Section 211 of SARA.
- b. Title 10, United States Code, Chapter 160, Sections 2701, 2702, 2704, and 2705 ("Armed Forces, Environmental Restoration").

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-21. Agreements with other Federal Agencies

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA): to consult with agencies, departments, and instrumentalities regarding investigations and studies of federal facilities conducted under section 120(e)(1); to review the plans for and results of such investigations and studies; and to enter into an agreement with the head of the department, agency or instrumentality for completion by the department, agency or instrumentality of all necessary response actions at the Federal facility.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.
3. LIMITATIONS.
 - a. Regional Administrators or their delegates may exercise this authority for sites or particular operable units at a site within their Regions listed in the Remedy Delegation Report issued periodically by the Assistant Administrator for Solid Waste and Emergency Response.
 - b. The Assistant Administrator for Solid Waste and Emergency Response or delegatee must obtain the concurrence of the Assistant Administrator for Enforcement and Compliance Monitoring or designee on agreements under section 120 with other Federal departments, agencies, or instrumentalities at sites where viable non-Federal potentially responsible parties are identified.
4. REDELEGATION AUTHORITY. The Assistant Administrator for Solid Waste and Emergency Response may redelegate this authority to the Division Director level, except for the authority to enter into agreements for completion of remedial actions, which may be delegated only to the Office Director level. The Regional Administrator may redelegate this authority to the Division Director level, except for the authority to enter into agreements for completion of remedial actions, which may be redelegated only to the Deputy Regional Administrator.
5. ADDITIONAL REFERENCES:
 - a. Section 120 of CERCLA
 - b. Applicable Agency guidance and directives.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-21. Agreements with other Federal Agencies

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA): to consult with agencies, departments, and instrumentalities regarding investigations and studies of federal facilities conducted under section 120(e)(1); to review the plans for and results of such investigations and studies; and to enter into an agreement with the head of the department, agency or instrumentality for completion by the department, agency or instrumentality of all necessary response actions at the Federal facility.
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.
3. LIMITATIONS.
 - a. Regional Administrators or their delegates may exercise this authority for sites or particular operable units at a site within their Regions listed in the Remedy Delegation Report issued periodically by the Assistant Administrator for Solid Waste and Emergency Response.
 - b. The Assistant Administrator for Solid Waste and Emergency Response or delegatee must obtain the concurrence of the Assistant Administrator for Enforcement and Compliance Monitoring or designee on agreements under section 120 with other Federal departments, agencies, or instrumentalities at sites where viable non-Federal potentially responsible parties are identified.
4. REDELEGATION AUTHORITY. The Assistant Administrator for Solid Waste and Emergency Response may redelegate this authority to the Division Director level, except for the authority to enter into agreements for completion of remedial actions, which may be delegated only to the Office Director level. The Regional Administrator may redelegate this authority to the Division Director level, except for the authority to enter into agreements for completion of remedial actions, which may be redelegated only to the Deputy Regional Administrator.
5. ADDITIONAL REFERENCES:
 - a. Section 120 of CERCLA
 - b. Applicable Agency guidance and directives.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-23. Public Participation

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA): to provide notice, brief analysis, reasonable opportunity for submission of written and oral comments on the proposed plan, and opportunity for a public meeting at or near the facility at issue; to keep a transcript of the meeting and make that transcript available; to publish notice of the adoption of the final plan for the remedial action; and to publish an explanation of significant differences between the final plan and actions taken.
2. TO WHOM DELEGATED. Regional Administrators.
3. REDELEGATION AUTHORITY. This authority may be redelegated.
4. ADDITIONAL REFERENCES.
 - a. Sections 104; 106; 117(a), (b), (c), (d); 120; 121; and 122 of CERCLA.
 - b. National Contingency Plan, 40 CFR 300.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-24. Grants for Technical Assistance

1. AUTHORITY. To perform all actions necessary to approve assistance agreements pursuant to Section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA).

2. TO WHOM DELEGATED. Regional Administrators.

3. LIMITATIONS.

a. This authority shall be exercised in accordance with Agency regulations under section 117(e) and Agency grant regulations, 40 CFR 30 and 40 CFR 33.

b. Regional Administrators or their delegates must obtain the advance concurrence of the Assistant Administrator for Solid Waste and Emergency Response or designee before waiving the limit of \$50,000 per recipient under section 117(e)(2). The Assistant Administrator for Solid Waste and Emergency Response may waive the advance concurrence requirement by memorandum.

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Section 117(e) of CERCLA.

b. Agency grant regulations, 40 CFR 30 and 40 CFR 33.

c. Agency regulations under section 117(e).

d. The authority to execute assistance agreements is delegated in Delegation 1-14.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-25. Notification of Trustees

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to notify appropriate Federal and State natural resource trustees of potential damages to natural resources resulting from releases of hazardous substances, pollutants, or contaminants, and to coordinate assessments, investigations, and planning with such trustees. To notify these trustees of negotiations under section 122(j)(1) related to such release, and to receive notice of designation of State trustees under section 107(f)(2)(b).
2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.
3. REDELEGATION AUTHORITY. This authority may be redelegated.
4. ADDITIONAL REFERENCES.
 - a. Sections 104(b)(2), 107(f)(2)(B), and 122(j)(1) of CERCLA
 - b. Applicable Agency guidance and directives
 - c. National Contingency Plan, 40 CFR 300.

SOLID WASTE DISPOSAL ACT (SWDA)8-33. Selection and Performance of Federal Corrective Actions
at Leaking Underground Storage Tanks

1. AUTHORITY. Pursuant to Subtitle I of the Solid Waste Disposal Act as amended (SWDA), to determine the necessity of and to select Federal corrective actions at leaking underground storage tanks containing petroleum, to enter property and to perform such corrective actions.

2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.

3. LIMITATIONS.

a. Regional Administrators or their delegates may exercise this authority only for requests for obligations not exceeding \$50,000, and must comply with Federal lead UST corrective action guidance issued by the Assistant Administrator for Solid Waste and Emergency Response.

b. If this authority is redelegated, the Director, Office of Emergency and Remedial Response, must obtain the advance concurrence of the Director, Office of Underground Storage Tanks.

4. REDELEGATION AUTHORITY.

a. This authority may be redelegated by the Assistant Administrator for Solid Waste and Emergency Response to the Director, Office of Emergency and Remedial Response.

b. Regional Administrators may redelegate this authority to Division Directors, who may then redelegate to On-Scene Coordinators.

5. ADDITIONAL REFERENCES.

- a. Superfund Removal directives.
- b. Section 9005(a) of SWDA.
- c. Section 9003(h) of SWDA.
- d. UST corrective action procedures.

TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT
(TITLE III of SARA)

"Emergency Planning and Community Right to Know Act"

22-1. Civil Judicial Enforcement Actions

1. AUTHORITY. To request the Attorney General to appear and represent the Agency in any civil enforcement actions pursuant to Title III of the Superfund Amendments and Reauthorization Act (SARA); to intervene in any civil enforcement actions instituted under Title III of SARA; to request the Attorney General to decline to prosecute a previously referred civil enforcement action; and to request the Attorney General to initiate an appeal and represent the Agency in such an appeal.

2. TO WHOM DELEGATED. Assistant Administrator for Enforcement and Compliance Monitoring and the General Counsel.

3. LIMITATIONS.

a. The Assistant Administrator for Enforcement and Compliance Monitoring or his/her delegatee must notify the Assistant Administrator for Solid Waste and Emergency Response, the Assistant Administrator for Pesticides and Toxic Substances, and the appropriate Regional Administrator or their designees when exercising the authority described above.

b. The General Counsel or his/her delegatee may exercise this authority only in regard to civil appeals.

c. Any appeal authority will be exercised jointly by the General Counsel and the Assistant Administrator for Enforcement and Compliance Monitoring, or their delegates.

4. REDELEGATION AUTHORITY. The authority to request the Attorney General to decline to prosecute a previously referred civil enforcement action may be redelegated to the Division Director level. The other authorities cited in paragraph 1 above may be redelegated.

5. ADDITIONAL REFERENCES. Title III of SARA, Section 325.

TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT
(TITLE III of SARA)

"Emergency Planning and Community Right to Know Act"

22-2. Criminal Judicial Enforcement Actions

1. AUTHORITY. To cause criminal matters under Title III of the Superfund Amendments and Reauthorization Act (SARA) to be referred to the Department of Justice for assistance in field investigation, for initiation of a grand jury investigation, for prosecution under Title III of SARA and to prosecute such action to conclusion, including appeals.
2. TO WHOM DELEGATED. Assistant Administrator for Enforcement and Compliance Monitoring and the General Counsel.
3. LIMITATIONS.
 - a. The General Counsel or his/her delegatee may exercise this authority only in regard to criminal appeals.
 - b. Any appeal authority will be exercised jointly by the General Counsel and the Assistant Administrator for Enforcement and Compliance Monitoring or their delegates.
4. REDELEGATION AUTHORITY. This authority may be redelegated.
5. ADDITIONAL REFERENCES. Title III of SARA, Section 325.

TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT
(TITLE III of SARA)

"Emergency Planning and Community Right to Know Act"

22-3. Administrative Enforcement Actions

1. AUTHORITY. To take any administrative enforcement action under Title III of the Superfund Amendments and Reauthorization Act (SARA) including but not limited to issuing compliance orders, issuing warning letters or other notices, conducting hearings and representing the Agency in such hearings, assessing and collecting penalties, and issuing subpoenas.

2. TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response, Assistant Administrator for Pesticides and Toxic Substances, and Regional Administrators.

3. LIMITATIONS.

a. The Assistant Administrator for Solid Waste and Emergency Response or his/her delegatee may exercise this authority only in regard to sections 302, 303, 304, 311, 312, 322 and 323 of Title III of SARA, and must notify the appropriate Regional Administrator when exercising this authority. The Assistant Administrator for Solid Waste and Emergency Response or delegatee must consult with the Assistant Administrator for Enforcement and Compliance Monitoring or designee when conducting hearings, representing the Agency at such hearings, and issuing subpoenas, unless such consultation is waived by memorandum.

b. The Assistant Administrator for Pesticides and Toxic Substances or his/her delegatee may exercise this authority only in regard to sections 313, 322 and 323 of Title III, and must notify the appropriate Regional Administrator when exercising this authority. The Assistant Administrator for Pesticides and Toxic Substances or his/her delegatee must consult with the Assistant Administrator for Enforcement and Compliance Monitoring or designee when conducting hearings, representing the Agency at such hearings, and issuing subpoenas, unless such consultation is waived by memorandum.

c. Regional Administrators or their delegates must consult with the Assistant Administrator for Solid Waste and Emergency Response or the Assistant Administrator for Pesticides and Toxic Substances, or their designees, as appropriate, before exercising this authority, unless such consultation is waived by memorandum.

4. REDELEGATION AUTHORITY. This authority may be redelegated.

5. ADDITIONAL REFERENCES. Title III of SARA, Section 325.

TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT
(TITLE III of SARA)

"Emergency Planning and Community Right to Know Act"

22-4. Notification by States of Facilities Subject to Planning Requirements

1. AUTHORITY. Pursuant to section 302(d) of Title III of the Superfund Amendments and Reauthorization Act (SARA), to receive notifications from State emergency response commissions of facilities subject to the requirements of Subtitle A of Title III of SARA.
2. TO WHOM DELEGATED. Assistant Administrator for the Office of Solid Waste and Emergency Response and Regional Administrators.
3. REDELEGATION AUTHORITY. This authority may be redelegated.
4. ADDITIONAL REFERENCES. Title III of SARA, Section 302.

TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT(TITLE III of SARA)"Emergency Planning and Community Right to Know Act"22-5. Receipt of Petitions to List/Delist Chemicals and Responses to Petitions

1. AUTHORITY. Pursuant to section 313 of Title III of the Superfund Amendments and Reauthorization Act (SARA), to receive petitions to add or delete chemicals from the list of chemicals subject to toxic chemical release reporting under section 313(c), to publish an explanation of why any such petition is denied, and to sign rulemakings to modify the list.
2. TO WHOM DELEGATED. Assistant Administrator for the Office of Pesticides and Toxic Substances.
3. REDELEGATION AUTHORITY. This authority may be redelegated.
4. ADDITIONAL REFERENCES.
 - a. Committee Print Number 99-169 of the Senate Committee on Environment and Public Works ("Toxic Chemicals Subject to Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986").
 - b. Title III of SARA, Section 313.
 - c. Start Action Request #2425 to establish a standing workgroup to review petitions.

TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT
(TITLE III of SARA)

"Emergency Planning and Community Right to Know Act"

22-6. Receipt of Toxic Chemical Release Forms
and National Toxic Chemical Inventory

1. AUTHORITY. Pursuant to section 313 of Title III of the Superfund Amendments and Reauthorization Act (SARA):
 - a. To receive toxic chemical release forms submitted by the owners or operators of facilities;
 - b. To establish and maintain in a computer database pursuant to Section 313(j) for the purpose of maintaining a national toxic chemical inventory submitted under section 313(a);
 - c. To make these data accessible by computer telecommunications and other means to any person on a cost-reimbursable basis;
 - d. To establish policies regarding fees and to waive fees when in the public interest.
2. TO WHOM DELEGATED. Assistant Administrator for the Office of Pesticides and Toxic Substances.
3. REDELEGATION AUTHORITY. Authorities delegated in 1.a, 1.b, 1.c and the authority to waive fees in 1.d may be redelegated. The authority in 1.d to establish policies on waiving of fees may be redelegated to the Division Director level.
4. ADDITIONAL REFERENCES.
 - a. Title III of SARA, Section 313.
 - b. Waiving of fees must be done in accordance with established policies.

TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT
(TITLE III OF SARA)
"Emergency Planning and Community Right to Know Act"

22-7. Trade Secrets

1. AUTHORITY. Pursuant to section 322 of Title III of the Superfund Amendments and Reauthorization Act (SARA):

- a. To receive trade secret information under section 322(a) of SARA.
- b. To accept petitions for disclosure of trade secret information and to make determinations regarding sufficiency of substantiations and regarding trade secrecy under section 322(d).
- c. To handle appeals under the petition process for disclosure of trade secret information.

2. TO WHOM DELEGATED.

a. The authority in paragraphs 1.a and 1.b is delegated to the Assistant Administrator for Solid Waste and Emergency Response with regard to sections 303, 311, and 312 of Title III of SARA.

b. The authority in paragraphs 1.a and 1.b is delegated to the Assistant Administrator for Pesticides and Toxic Substances with regard to section 313 of Title III of SARA.

c. The authority in paragraph 1.c is delegated to the General Counsel.

3. LIMITATIONS. The Assistant Administrator for the Office of Pesticides and Toxic Substances, the Assistant Administrator for the Office of Solid Waste and Emergency Response, and the General Counsel or their delegates will consult with Regional Administrators when exercising the above authority, as needed on a site-specific basis.

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Office Director level or to the Director of the Preparedness Staff.

5. ADDITIONAL REFERENCES. Section 322 of SARA.