



DIRECTIVE NUMBER: 9360.0-34

TITLE: Determination of Imminent and
Substantial Endangerment for Removal
Actions

APPROVAL DATE: 8/19/93

EFFECTIVE DATE: 8/19/93

ORIGINATING OFFICE: OERR

FINAL

DRAFT

LEVEL OF DRAFT

A — Signed by AA or DAA

B — Signed by Office Director

C — Review & Comment

REFERENCE (other documents):

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DIRECTIVE DIRECTIVE



United States Environmental Protection Agency
Washington, DC 20460

OSWER Directive Initiation Request

1. Directive Number

9360.0-34

2. Originator Information

Name of Contact Person Betti VanEpps	Mail Code 5201G	Office OERR	Telephone Code 260-9760
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3. Title
Determination of Imminent and Substantial Endangerment for Removal Actions

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

This memorandum clarifies the process for making endangerment determinations for removal actions pursuant to Delegation of Authority 14-14-A under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act.

5. Keywords

Removal Actions, Delegation of Authority 14-14-A, and endangerment

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

No Yes What directive (number, title)

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 VanEpps

Date

8/25/93

10. Name and Title of Approving Official

Bruce M. Diamond, OWPE, and Henry L. Longest II, OERR

Date

8/19/93

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

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


AUG 19 1993


OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

OSWER Directive 9360.0-34
NTIS Number PB93-963416
EPIC Number EPA540-F-93-039

MEMORANDUM

SUBJECT: Determination of Imminent and Substantial Endangerment
for Removal Actions

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

PURPOSE

This memorandum clarifies the process for making endangerment determinations for removal actions pursuant to Delegation of Authority 14-14-A under Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA).

BACKGROUND

CERCLA Delegation of Authority 14-14-A gives Regional Administrators the ability to make determinations of imminent and substantial endangerment. These determinations establish the basis for pursuing legal relief when there is an actual or threatened release of a hazardous substance. As currently written, the authority can be exercised only after consultation with the Office of the Assistant Administrator for Solid Waste and Emergency Response (OSWER).

In a memorandum dated April 4, 1990 (Clarification of Delegations of authority 14-14-A, 14-14-B and 14-14-C under CERCLA), we explained that the consultation requirement would be satisfied if a Region based the endangerment determination on the Risk Assessment Guidance for Superfund (EPA/1-89/002, signed October '13, 1989). This Guidance describes a detailed methodology for evaluating risks that is primarily applicable to remedial



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actions. Consequently, it is often not a good reference for supporting removal action decisions.

OBJECTIVE

This directive establishes a revised procedure for Regions to use in satisfying the consultation requirement when making endangerment determinations for removal actions.

IMPLEMENTATION

From now on, the consultation requirement under delegation 14-14-A can be met if a Region bases an endangerment determination on appropriate Superfund policy or guidance, or on collaboration with a trained risk assessor. Appropriate sources include, but are not limited to, relevant action level or clean-up standards, Agency for Toxic Substances and Disease Registry documents or personnel, or staff toxicologists. In the absence of a good alternative, Regions will have to consult with OSWER.

Whatever source is used must be cited in the endangerment finding section of the action memorandum, along with a detailed justification of the decision. By carefully documenting the endangerment finding, future problems and legal challenges will be minimized. Furthermore, Regions should take full advantage of the model administrative order on consent (OSWER Directive #9833.06) and the model removal unilateral administrative order (OSWER Directive #9833.07). The language in these model orders is designed to help Regions ensure that their efforts have the soundest legal basis possible.

cc: Richard Guimond
Tim Fields
William White
Lisa Friedman
Sally Seymour
Debbie Dietrich
Waste Management Division Directors, Regions I-X
Environmental Service Division Directors, Regions I, VI, VII
Superfund Document Center