



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


MAY 9 1994


OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE


OSWER Directive Number 9280.0-03

MEMORANDUM

SUBJECT: Guidance on Considering Wetlands at Superfund Sites

FROM: Bruce Diamond, Director 
Office of Waste Programs Enforcement

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

Robert H. Wayland III, Director 
Office of Wetlands, Oceans and Watersheds

TO: Waste Management Division Directors
Regions I, IV, V, VI, VII, VIII
Emergency and Remedial Response Division Director
Region II
Hazardous Waste Management Division Directors
Region III, IX, X
Water Division Directors
Regions I-X
Environmental Services Division Directors
Regions I-X

PURPOSE

The purpose of this guidance is to provide new information to Regional Project Managers (RPM), On-Scene Coordinators (OSC), Biological Technical Assistance Group (BTAG) Coordinators and Wetland Coordinators (WC) for considering wetlands at Superfund sites. This directive focuses on changes in §404 of the Clean Water Act (CWA) and on the importance of wetlands in ecosystem protection, and lists contacts and procedures for assessing mitigation. The hierarchical approach to mitigation according to §404 is explained in context of what actions can be taken at Superfund sites in order to satisfy the requirements of §404.

BACKGROUND

It is estimated that nearly 60% of Superfund sites are located in or near wetlands. Consequently, wetlands will be encountered often and there is a need for a document that updates



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an existing guidance, answers regional questions and outlines a process for handling wetlands consistently.

The section in the CERCLA Compliance with Other Laws manual addressing how Superfund should treat wetlands was last updated in 1988. The regions have requested clarification on the interpretation of Executive Orders and §404 as an Applicable or Relevant and Appropriate Requirement (ARAR) as well as on other issues not covered in the manual. There have been changes in EPA's policies and laws including a rule issued on August 25, 1992 in which EPA clarified the definition of discharge of dredged or fill material. This guidance also reflects EPA's new policy on ecosystem protection as presented in the December 1993 National Performance Review (EPA 210\R-93-004). The Administrator has identified ecosystem protection as an Agency priority, and directed programs to include more ecological consideration in regulation development and coordination, policy decisions, and ecosystem management.

The guidance provides an overview of CERCLA and §404 of the CWA to promote understanding of both programs by RPMs, OSCs and WCs. In order to foster earlier and increased coordination between regional Superfund and Wetland program staff at sites, the guidance goes into detail on the major CWA and related ARARs and other factors to be considered (TBCs). The value of identifying wetlands early and involving all relevant parties (Natural Resource Trustees, WC's, and BTAGs) is stressed. Appropriate levels of effort for characterizing, delineating and assessing wetlands are discussed and the potential impacts of clean-up activities are addressed. The Natural Resource Trustees and their role are also described.

We have attached a copy of a recent press announcement which demonstrates the effective application of the principles set forth in this guidance.

Questions concerning this document can be directed to Elaine Suriano at 703/603-8944.

Attachments

- cc: Tim Fields, Director, SRO
- Barry Breen, Director, Federal Facilities
- Superfund Branch Chiefs, Regions I-X
- Superfund Section Chiefs, Regions I-X
- Office of Regional Counsel Branch Chiefs, Regions I-X
- Water Management Branch Chiefs, Regions I-X
- BTAG Coordinators, Regions I-X
- Wetlands Coordinators, Regions I-X