

JAN 13 1985

MEMORANDUM

SUBJECT: Guidance on Delegation of Selection of Remedy Authority to Regions

FROM: *[Signature]*  
Jack W. McGraw  
Acting Assistant Administrator

TO: Director, Waste Management Division, Regions I and V  
Director, Office of Emergency and Remedial Response, Region II  
Director, Hazardous Waste Management Division, Region III  
Director, Air and Waste Management Division, Regions IV, VI, VII, VIII  
Director, Toxics and Waste Management Division, Region IX  
Director, Air and Waste Division, Region X

BACKGROUND

The purpose of this memorandum is to present our proposed procedures to implement the partial delegation of selection of remedy this fiscal year. At October and November Regional/Headquarters meetings, our staff outlined proposed procedures for the delegation of Record of Decision (ROD) approval authority to the Regional Administrators. The procedures also pertain to the Negotiation Decision Document (NDD) and the Enforcement Decision Document (EDD) for responsible party cleanups. We plan to delegate 60 percent of the FY 1985 ROD/NDD/EDDs. These procedures do not affect settlement review and concurrence for administrative and judicial actions.

The following technical factors will be used to assess whether remedy selection will be delegated:

1. Limited threat posed by site requiring no action,
2. Action to remedy waste lagoons and ponds on-site,
3. Action to remedy surface drums and surface tanks,
4. Action to provide alternative water supplies that are contaminated or threatened, and
5. Remedial action in which the off-site contamination is limited.

~~Four factors~~ warrant retaining approval of the remedy by the AA-OSWER:

1. ~~Area-wide~~ or extensive off-site contamination,
2. Disposal or removal of dioxin wastes (until the listing regulations are developed and implemented),
3. Likely remedies will not comply with other environmental laws. Possible fund balancing or public interest waivers will be scrutinized closely, or
4. Likely remedies will require permanent relocation of residents.

In addition, nationally significant enforcement cases, e.g. cases concerning responsible parties involved at multiple sites, could warrant the AA-OSWER retaining remedy approval authority.

#### First and Second Quarter ROD/NDD/EDDs

Over the past three weeks, the Hazardous Site Control Division (HSCD) and CERCLA Enforcement Division (CED) have been working closely with your staff to identify those remedial sites with operable units which will be appropriate for delegation. The focus has been on those sites scheduled for ROD/NDD/EDD completion in the first and second quarters of the fiscal year (see Attachment 1). As a result of this review, it appears that the initial Remedy Delegation Report (RDR) will contain about 5-7 sites.

We are concerned that with the delegation factors listed above, it may be difficult to achieve our ROD/NDD/EDD delegation goal of 60 percent. Therefore, we need to work closely with the Regions to identify sites which fall into the AA-OSWER category (see Attachment 1) but could be shifted to the Regions if key issues were resolved prior to the public comment period. In order to identify these sites we will need additional information on each site scheduled for a ROD/NDD/EDD this fiscal year.

#### Procedures

We would appreciate receiving the information described in the attached Delegation Analysis Summary (Attachment 2) for the second quarter sites designated as "to be determined" for the likely selection official (see Attachment 1). This Delegation Analysis Summary focuses on four major areas:

1. Site background and threat;
2. Key remedial alternatives under consideration;
3. Issues remaining to be resolved; and
4. Evaluation of delegation recommendation.

The Delegation Analysis Summary is neither a cost-effective analysis document nor a stand alone document. It identifies issues, but does not necessarily present solutions. As a result of the submission of this analysis, we should be able to identify sites for delegation and candidate sites for issue resolution with subsequent delegation.

Generally, the Delegation Analysis Summary should be submitted after completion of the remedial investigation. However, in some cases the recommendation to delegate could be made before the remedial investigation if there is sufficient site knowledge and/or remedial planning activities are being fast tracked. Recommendations should be received by HSCD or CED and acted upon by the AA-OSWER before the feasibility study is released to the public.

Once a site remedy selection has been delegated to a Region, a previously unanticipated situation could arise where authority ordinarily would be retained by the AA-OSWER. Therefore, before selection of remedy by the Regional Administrator, advance concurrence of the AA-OSWER is required in the following cases:

- (1) When the Regional Administrator is considering Fund-balancing to initiate action;
- (2) When the Regional Administrator is considering a public interest circumstance; or
- (3) When noncompliance with another environmental law or standard will occur.

These procedures and how they relate to the existing ROD/NDD/EDD processes are illustrated in Attachments 3-1 and 3-2.

### Schedule

The Agency's striped border review for this delegation of authority should begin next week. HSCD and CED will continue analyzing first and second quarter sites to identify sites that could be included in the first periodic Remedy Delegation Report (estimated late February). It is requested that the Regions submit the Delegation Analysis Summary for third quarter SCAP sites by February 28, 1985.

### Third and Fourth Quarter RODs

Upon completion of the analysis of possible second quarter SCAP delegations, this informal process should be continued for third and fourth quarter ROD/NDD/EDDs. Delegation Analysis Summaries should be submitted to HSCD or CED as early in the second quarter as possible.

Points Of Contact

If ~~you~~ have any questions concerning these procedures, please contact ~~Bill~~ Hanson for remedial (FTS 382-2345) and Bob Mason for enforcement (FTS 475-8235).

Attachments

cc: Regional Counsel, Regions I-X  
Dan Berry, OGC  
Fred Stiehl, OECM  
Jim Lounsbury, OERR

ROD Status

<u>REGION</u>	<u>Quarter</u>	<u>ROD DATE</u>	<u>Likely Selection Official</u>	<u>Notes</u>
I	Nyanza, MA	3/85	RA	
I	[Western Sand, RI]	2/85	AA	
II	Bridgeport, NJ	12/84	AA	
II	[Love Canal, NY]	3/85	AA	
III	Tysons, PA	12/84	AA	
V	Byron, IL	2/85	RA	
V	Chemdyne, OH	2/85	AA	
VI	Crystal Chemical, TX	2/85	AA	NDD-Consent Order
VII	Ellisville, MO	2/85	RA	
.X	South Tacoma, WA	9/84	AA	Sites without dioxin NDD already prepared

<u>REGION</u>	<u>Second Quarter</u>	<u>ROD DATE</u>	<u>Likely Selection Official</u>	<u>Notes</u>
I	[Charles George, MA]	3/85	RA	
I	McKin, ME	5/85	TBD (To be determined)	
II	[Burnt Fly Bog, NJ]	3/85	AA	
II	D'Imperio, NJ	3/85	TBD	
II	[Price, NJ]	3/85	AA	
II	Sinclair, NY	6/86	TBD	Likely to be NDD Not Applicable for FY'85
III	[Bruin, PA]	3/85	AA	
III	Lackawanna, PA	2/85	TBD	
III	Tybouts, DE	5/85	TBD	
IV	NW 58th Street, FL	2/85	TBD	
V	Cemetary Dump, MI	6/85	TBD	
V	Charlesvoix, MI	3/85	AA	
V	Cross Bros, IL	2/85	TBD	
V	LaSalle, IL	6/85	TBD	
V	Main St Well Field, IN	2/85	RA	
VI	Motco, TX	2/85	RA	Likely to be IRM
VIII	Denver Radium, CO	3/85	TBD	
VIII	Woodbury, CO	6/85	TBD	
X	Western Processing, WA	3/85	TBD	Likely to be NDD

NDD/EDD Status

<u>REGION</u>	<u>Second Quarter</u>	<u>NDD/EDD DATE</u>	<u>Likely Selection Official</u>	<u>Notes</u>
IV	A.L. Taylor, KY	2 Qtr	TBD	
V	A & F Greenup, IL	2 Qtr	TBD	
VI	Harris Farley, TX	2 Qtr	TBD	
VII	Conservation Chem., KS	2 Qtr	TBD	

**Delegation Analysis Summary**

[Note Items 2-8 may be omitted if RI/FS has been submitted]

Site Name: \_\_\_\_\_

Site Location: \_\_\_\_\_

Site Classification: \_\_\_\_\_

1. Delegation Criteria

Indicate which delegation criteria are applicable to this site.

2. Site Description (include map(s), site plan(s))

Brief description of location, land user(s), surface water resources, ground water resources.

Current Site Status

3. Hazardous Compounds Present

Brief description of types and amounts of hazardous compounds present in:

- surface drums and tanks
- surface impoundment(s)
- soil
- ground water
- air
- other natural resources
- threats to water supplies

4. Risk to Receptors via Pathways

Brief description of risk due to exposure from hazardous compounds via identified pathways.

5. Operable Unit(s)

Describe if site activity will be divided into operable units.

6. Remedial Objectives and Criteria

Present remedial objectives and criteria

7. Remaining Alternatives Description

Briefly describe alternatives remaining after the initial screening process (including no-action) in terms of specific activities, cost, public health considerations, environmental considerations, and technical considerations.

8. Recommended Alternative

Describe the proposed recommended alternatives or describe any alternate remedies which would be deemed acceptable in an NDD.

9. Consistency with other Environmental Laws

State whether the alternatives attain, exceed, or are below current regulations (and reason).

10. Enforcement

Description of past, present and expected enforcement activities, e.g. number and identity of responsible party negotiations status.

11. Community Relations

Briefly describe public's involvement and concerns.

12. Issues to be Resolved

Examples would include:

- Potential for Fund balancing
- RCRA issues, such as need to obtain alternate concentration limits (ACLs) and application to on-site disposal
- Acceptability of off-site disposal facilities
- Eligibility for funding of more restrictive State standard
- No action thresholds

13. Schedule

List key milestones and dates for project implementation

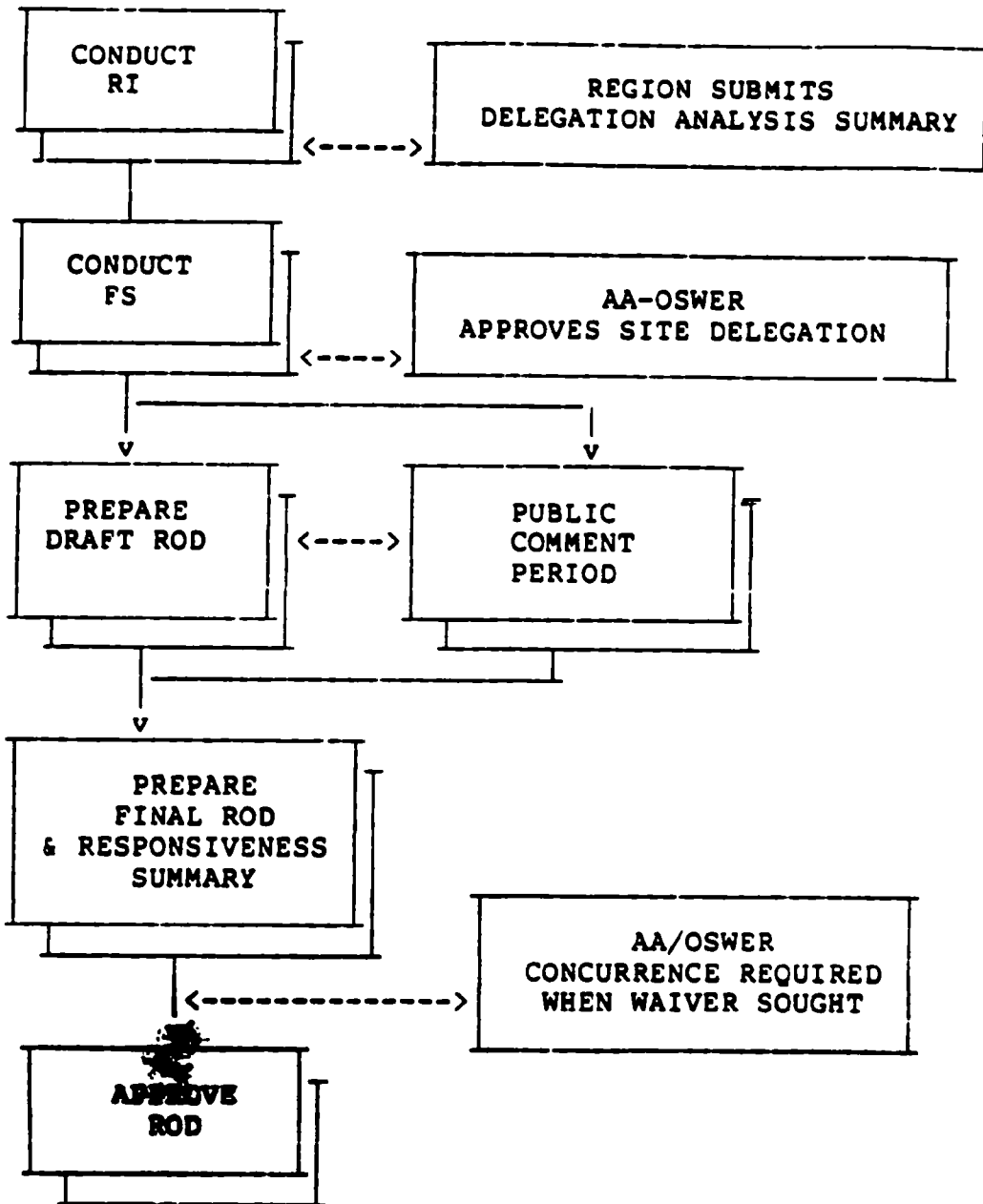
- Complete Remedial Investigation Feasibility Study
- Prepare ROD or NDD
- Approve Remedial Action (sign ROD)

14. Future Actions

Describe future remedial activities that are required to complete site response:

- Additional RI/FS projects
- Second operable unit (i.e., for ground water migration)
- Long-term O&M to maintain effectiveness of remedy

REMEDY SELECTION PROCESS  
FUND-LEAD





REMEDY SELECTION PROCESS  
ENFORCEMENT-LEAD

