



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

OSWER Directive # 9834.6FS

FACT SHEET
POLICY TOWARDS OWNERS OF RESIDENTIAL PROPERTY
AT SUPERFUND SITES

Prepared by the U.S. EPA Office of Solid Waste and Emergency Response, Office of Waste Programs Enforcement, and the Office of Enforcement

EPA ACTION:

EPA is issuing its POLICY TOWARDS OWNERS OF RESIDENTIAL PROPERTY AT SUPERFUND SITES.

Under this policy the Agency, in the exercise of enforcement discretion, will not take enforcement actions under the Superfund law against an owner of residential property to perform response actions or pay response costs.

PURPOSE:

The Agency is issuing this policy to address concerns raised by owners of residential property located on Superfund sites, and to provide the Regions with a nationally consistent approach on this issue. The guidance sets forth in writing what has been the Agency's past practice towards owners of residential property located on Superfund sites.

BACKGROUND:

Several sites that are the subject of a response action (removal or remedial activities) under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA or Superfund), include properties that are owned and used exclusively as single family residences (one-to-four dwelling units). At several larger sites, soil or ground water contamination may be so extensive that there are several hundred of these residential properties located on a Superfund site.

Some owners of residential property located on Superfund sites are concerned about potential liability for performance of a response action or payment of cleanup costs because they may come within the definition of "owner" under CERCLA. Such owners of residential property have expressed concern that they may be unable to sell these properties because the buyer (or its lending institution) may also be concerned about potential liability.

In the past, the Agency, in the exercise of its enforcement discretion, has not required owners of residential property located on Superfund sites to perform response actions or pay response costs except where the residential homeowner's activities lead to a release or threat of a release of hazardous substances, resulting in the taking of a response action at the site. The Agency has, however, asked owners of residential property to provide access to the residential property and requested that owners abide by institutional controls placed on the property to prevent future releases.

The Agency is issuing this guidance to establish in writing what has been the Agency's past practice. Under this policy, the Agency will continue to exercise its enforcement discretion and will not pursue an owner of residential property to undertake response actions or pay response costs. However, if the owner's activities lead to a release or threat of release of a hazardous substance resulting in the taking of a response action, this policy does not apply, and the Agency will contemplate taking an enforcement action against the owner. Owners of residential property are not within the scope of this policy where they do not use the property for residential purposes or fail to comply with other CERCLA obligations (e.g., provide access or comply with institutional controls placed on the residential property).

The Agency's exercise of enforcement under this policy will extend to lessees of residential property, if the lessees' activities are consistent with this policy. This policy also applies to past owners of residential property as well as future owners of residential property. Whether a person who acquires residential property has or had knowledge or reason to know that contamination was present on the property at the time of purchase or sale of the property will not affect EPA's exercise of enforcement discretion under this policy.

CONTACT:

To receive a copy of the policy, contact the National Technical Information Service (NTIS) at (703) 487-4600 or (800) 336-4700. For more information concerning this policy, contact Gary Worthman in the U.S. EPA Office of Waste Programs Enforcement at FTS (202) 382-5646, or Patricia Mott in the U.S. EPA Office of Enforcement at FTS (202) 245-3733.