

LEAKING UNDERGROUND STORAGE TANKS

a Public Participation Guide
for Region 8 States

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PREFACE

This handbook was prepared by the Region 8 Underground Storage Tank (UST) Program Section, Hazardous Waste Management Division. It is intended to help States develop a public participation program for Leaking Underground Storage Tanks (LUSTs).

The handbook has simplified and distilled strategies and techniques from other EPA Community Relations documents; much of its information has been culled from EPA experiences with the Superfund program. Yet, this handbook has also incorporated new information that applies uniquely to the LUST program.

Throughout the handbook, excerpts and adaptations from the following are included:

Community Relations in Superfund: A Handbook. Prepared by ICF Incorporated for the U.S. EPA. June 1988 (Interim Version).

Guidance on Public Involvement in the RCRA Permitting Program. Prepared by the Office of Solid Waste, U.S. EPA. December 6, 1985.

Specific sections, however, are adapted from the following sources:

Part VI: Dealing with the Public:

Michaelson, Lewis. "Conflict Management." Presentation at Community Relations in Superfund: Concepts and Skills for Response Staff course. Denver: August 9-10, 1988.

Schwartz, Marcy. "How to Conduct Effective Meetings." Presentation at Community Relations in Superfund: Concepts and Skills for Response Staff course. Denver: August 9-10, 1988.

Part VII: Dealing with the Media:

Corrado, Frank. "Media Relations." Presentation at Community Relations in Superfund: Concepts and Skills for Response Staff course. Denver: August 9-10, 1988.

Finally, the handbook was written by Bill Porter. Comments and suggestions on draft copies were sought from Debra Ehlert, Randy Leu, and James Rakers of Region 8 UST Program staff; Nola Cooke, Marilyn Null, and Jane Russo of Region 8 Office of External Affairs staff, and Melissa Shapiro of U.S. EPA Superfund Community Relations staff.

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I. INTRODUCTION

Public awareness of environmental issues continues to grow. The release of any hazardous substance into the environment has become a central concern to citizens throughout the United States. With such horror stories as Times Beach dominating past headlines, citizens become concerned when they discover any sort of environmental or health threat in their community. Keeping people involved and informed in clean-up actions affecting their community has thus become essential.

Leaks from petroleum storage tanks have recently come to light as an additional environmental problem. The EPA estimates between 50,000 to 200,000 leaking underground storage tanks (LUSTs) may exist. In response, Congress amended the Resource Conservation and Recovery Act to create a special trust fund to clean up petroleum leaks from these tanks. All Region 8 States (Colorado, Utah, Wyoming, North and South Dakota, and Montana) have entered into cooperative agreements with the EPA to help administer the funds. Under their agreements, States may compel tank owners and operators to undertake, or pay for, a variety of clean-up responses. Or, in cases where immediate action is needed or where owner/operators are unwilling or unable to conduct clean-up activities, the States may tap directly into the Trust Fund themselves.

* * * * *

Any clean-up procedure must stress two-way communication between the affected community and the government agencies cleaning up the LUST. Public participation activities should ensure that the local public is provided with accurate and timely information about response plans and progress, and that their concerns about these planned actions are figured into any decisions made about the site.

Recognizing the concern a community affected by a LUST may have, EPA asked States to develop a public participation plan¹ as part of their Trust Fund agreements. This handbook provides some guidance in developing this plan. It seeks to both highlight important community involvement issues and provide general guidance on public participation activities during LUST cleanups.

The first main section of the handbook offers a framework for creating the public participation plan. The four-part approach to a plan in Part III (beginning on page 5) and the Site Milestone and Public Involvement Activity Chart on page 19 should

¹ The phrases "public participation," "public involvement" and "community outreach" are synonymous, and all refer to activities that inform and involve the public during the cleanup of a LUST site.

prove especially helpful. The last two sections of the book offer tips and information on successfully conducting public involvement activities. Once the public participation plan has been developed, these sections help in implementing it effectively.

Throughout, the handbook has been designed to be as simple as possible. Although it runs some 40-or-so pages long, it is designed to be read quickly and easily. Several charts are used to summarize material in an accessible manner.

The need to conduct comprehensive public involvement activities will increase in the coming years. Greater public concern is anticipated, as people become more aware of the LUST problem. Some Region VIII States are already experiencing public involvement problem with their LUST sites. **As more tanks are discovered, public involvement activities will become more essential - and more difficult.**

Hopefully, this handbook will provoke thought among the various State agencies. EPA estimates contamination will be found at 350,000 LUST sites during the next five years - meaning significantly more clean-up activities will occur under the Trust Fund. Agencies² need to develop strategies and resources now - and get a "head start" on the situation.

² Throughout this handbook, the term "agency" refers to the particular State agency, department or office given responsibility for cleaning up LUST sites. The Code of Federal Regulations refers to this agency as "the implementing agency."

II. OBJECTIVES AND TASKS

"Responsiveness" must be the key word in a LUST clean-up action - responsiveness to local problems, concerns, and questions. The complete solution to a LUST must resolve both the environmental threat and the community's concern over this threat. LUST cleanup is a positive action, but the community perceives it that way only if its members feel their needs are being taken into consideration.

To this end, a complete public participation strategy will incorporate the following tasks:

*** Inform the public of planned and ongoing actions.**

Most importantly, public involvement activities must thoroughly inform the local public of the nature of the environmental problem, the threat it may pose, the agency's response to it, and the progress being made. Activities are most effective when initiated as early as possible.

*** Recognize that each community is different.**

Interest in and opinions about a LUST site will vary by community. Moreover, the nature of the UST leak will differ as well. Thus, the agency must recognize public participation activities will be different for every LUST discovered. Public involvement efforts must be tailored to the distinctive needs of each community.

*** Solicit comments and information from affected citizens in an active manner.**

The people who are the most concerned about a site or release are usually those who consider themselves to be directly affected - those who perceive their health or economic well-being to be threatened. Public involvement efforts must focus on these people, and the clean-up approach should take their concerns - as stated by that community - into account. Identifying these concerns allows the agency to be as responsive as possible to community needs.

*** Give citizens the opportunity to comment on decisions.**

Both LUSTs and LUST clean-up actions impact the surrounding area. Clearly, local citizens should be encouraged to contribute to decisions that will have long-term effects on their community. A public participation program seeks to develop a full understanding of local opinions, and incorporate these views into any decisions made about the site.

*** Resolve conflict.**

Some communities may express their apprehensions or doubts about the cleanup more strongly, and conflict may be unavoidable. Still, this conflict can be constructive if it

brings into the open alternative viewpoints based upon solid reasons for criticism or dissent. Despite the problems it creates, conflict should not be discouraged. Indeed, an effective community relations effort channels conflict into a forum where it can serve a useful purpose; it strives to anticipate, identify, and acknowledge areas of conflict so that decisions can be made with full understanding of community views.

*** Involve the responsible party.**

Sometimes, the owners/operators of the tank may want to initiate public outreach efforts of their own. The agency must assure the owner/operator's role is constructive and supportive of the clean-up efforts. However, the public must always realize that the agency's decisions are based on the need to protect human health and the environment, not the owner/operator's interests.

*** Conduct activities professionally.**

Public involvement activities should convey to the public that the agency is taking its community outreach program seriously. Despite resource limitations, **quality should never be sacrificed**. If the agency cannot handle community relations in a credible manner, the local public may begin to wonder whether it can handle the actual cleanup credibly.

PLAN AND PROCEDURES

Part III: Public Participation Plan

Part IV: Public Involvement Assessment

Part V: Site Milestones and Public
Involvement Activities

III. PUBLIC PARTICIPATION PLAN

This section highlights the general procedures any public participation plan should observe. Subsequent sections provide the more detailed information on these procedures. While public participation approaches will vary by both site and community, a general plan should follow a four-step procedure.

(1) Public Involvement Assessment

A Public Involvement Assessment should be conducted for each LUST site to identify:

- a) the major community concerns regarding the site;
- b) citizens, officials, and groups in the area who are especially interested in the site;
- c) the best means to provide information to the public and, in return, to obtain public comment and input.

Although resources may be limited, some attempt must be made to identify these factors. Surveying community concerns is relatively simple, and usually involves only one to two days of interviewing a few key officials, citizens, and other interested parties. More detailed information on the Public Involvement Assessment can be found in Part IV, beginning on page 8.

(2) Public Involvement Work Plan

Based on the Public Involvement Assessment, a Work Plan detailing appropriate agency activities is developed. The agency discovers what needs the community has, and then creates a plan to meet these needs. In this Work Plan, the agency confronts community problems at a site and works out constructive solutions.

The Public Involvement Work Plan accomplishes two goals:

- a) provides a detailed approach that clarifies for the community what exactly the agency will do in terms of public involvement;
- b) provides thorough background on community concerns and written guidance on agency activities for all agency staff members.

The Work Plan should be concise and simple. It can be written up in perhaps one-half hour.

At the same time, a Communications Strategy should be drafted that assigns specific activities to specific individuals, and targets their completion dates. The strategy should ensure these activities parallel the activities in the technical corrective action work plan.

Samples of the Work Plan and the Strategy are found on, respectively, Chart 4 on page 13 and Chart 5 on page 14.

(3) Target Required Public Involvement Activities

Any corrective action plan for additional soil and/or groundwater cleanup (beyond the initial free product recovery) is subject to EPA public participation requirements. According to 40 CFR § 280.67[a], the agency "must provide notice to the public by means designed to reach those members of the public directly affected by the release and the planned corrective action." Such notices could be:

- * public notices or block advertisements in a local newspaper
- * public service announcements
- * publication in a State register
- * letters to individual households
- * personal contacts by field staff

Under certain conditions, the agency is required to conduct additional public involvement activities:

- * **Notify the public** (as above) if the approved corrective action plan does not achieve established clean-up levels and is considered being terminated.
- * **Make available** all site release information and decisions concerning the corrective action plan to the public upon request.
- * **Conduct a Public Meeting** to consider comments on the corrective action plan when there is sufficient public interest (though not mandatory, strongly recommended).

Refer to Part IX: Specific Public Involvement Activities (beginning on page 27) for detailed discussions on conducting these public involvement activities. Also, refer to Appendix A on page 37 for the complete requirements in 40 CFR Subpart F (§§ 280.60-67).

(4) Target Additional Public Involvement Activities

In addition to the required activities, additional public involvement activities should be considered as well; the minimum requirements are rarely enough. Again, appropriate public involvement activities will vary from site to site. Success comes from matching specific needs in the community with specific activities.

Thus, the agency must be prepared to deal with a wide range of possibilities - from simply issuing a Public Notice to conducting a Public Meeting. Refer to Part IX: Specific Public Involvement Activities (beginning on page 27) for more detailed discussions on these and other public involvement activities.

Overall, remember: results are never guaranteed, even from the most carefully planned public participation effort. Keeping the community well-informed and actively soliciting information and ideas from residents is critical. However, this process does not guarantee that the community will be entirely satisfied with the clean-up actions taking place at the site. When things do go wrong, public participation staff will need to become skilled negotiators as well. ["Minimizing Conflict" and "Resolving Conflict" (pages 20-23) in Part VII: Dealing with the Public may prove helpful at this point.]

IV. PUBLIC INVOLVEMENT ASSESSMENT

The Public Involvement Assessment is the most important aspect of a public participation plan. The Public Involvement Assessment ensures the agency has a thorough grasp on the community concerns surrounding a LUST site.

The Public Involvement Assessment seeks to identify citizens, officials, and groups in the area who are especially interested in the site. It also gauges the community concerns about the site. Because it provides such a complete understanding of the community, the agency can make efficient decisions on the public involvement activities needed for the site. Moreover, it can identify potentially nasty conflicts before they become uncontrollable.

Identify Contacts

Locate various individuals and groups who can supply information on the community, its reactions to the LUST site, and its concerns regarding the site. This Contact List will provide a working list of individuals who should be kept informed of progress at the LUST site³. More importantly, it pinpoints which individuals the agency should interview for information about the community. Use the following sources to track down these contacts:

*** individuals directly affected by the LUST:**

- o local residents
- o local businesses
- o relevant officials

*** local organizations:**

- o health and environmental agencies
- o local congressional office
- o State elected officials
- o local elected officials
- o media
- o environmental groups

Generally, a Contact List will include the same types of individuals and groups. A sample list of these potential contacts - which will apply to most LUST sites - can be found on the next page (Chart 1).

³ Depending on the extent of the LUST clean-up, the Contact List could utilize mailing addresses or phone numbers (or both) to contact individuals. A list of telephone contacts would be more appropriate if only a few individuals need to be contacted, while a mailing list would be best for larger sites/communities.

- * develop a mailing list or telephone contact network from the Contact List:
 - o notify all concerned individuals and groups about the LUST and its ensuing cleanup.
 - o update these individuals and groups as necessary.
 - o revise the Contact List frequently; add names of any new individuals who are interested in the site.

CHART 1 Sample Contact List

Essential Contacts:	<ul style="list-style-type: none"> o Local Residents* o Local Businesses*
Elected Officials:	<ul style="list-style-type: none"> o Local Congressperson* o Local State Legislative Representatives* o Mayor/City Manager/County Commissioners* o City Council o Governor
Media:	<ul style="list-style-type: none"> o Community Newsletter* o Community Weekly Paper o City Daily Paper o Radio/TV Stations
Organizations:	<ul style="list-style-type: none"> o Homeowner's Association* o Local Reality Board* o Environmental Groups* o Local Libraries o Chamber of Commerce o School Superintendent o League of Women Voters
* Indicates Contacts who would be on a Contact List for virtually any LUST site	

Interview Relevant Contacts

* target individuals for interviews:

- o choose people who have a strong knowledge of the community and possible concerns about the site. See Chart 2 below.
- o set up a phone interview or one in person.

* notify the press:

- o notify the press of the site by phone call or **Press Release**; for more significant sites, a **News Conference** may be more appropriate⁴.
- o set up an interview with 1-2 local reporters - the press can provide important information on community reactions to the site.

CHART 2 Who to Interview

* for most sites, talk with:

- o 3-4 residents - especially any vocal ones
- o the Mayor and/or County Commissioner
- o a representative of a local business association
- o 1-2 members of the local press

* for every site, regardless of its size, set up meetings with:

- o those affected by the site (residents or businesses)
- o local press representative(s)

*** Remember...** Not every individual or group on the Contact List needs to be interviewed. Indeed, for most sites, no more than 10 people need to be interviewed; the idea is to merely conduct a general survey of the community's concerns.

* prepare for the interviews:

- o learn as much as possible about the site and the community in advance.
- o review any available files that contain news clippings, documents, letters, and any other sources of information about the site.
- o prepare a list of general questions. See Chart 3, next page, for a list of sample questions.

⁴ Public involvement activities highlighted in bold indicate a complete description of the activity is found in **Part IX: Specific Public Involvement Activities**, beginning on page 27.

CHART 3
Sample Interview Format and Questions

- * Interviews should last no longer than 20-30 minutes.
- * At the beginning of the interview...
 - o identify yourself
 - o explain how the interviewee's name was obtained
 - o briefly explain the agency's intentions at the site and its interest in community opinions
- * Questions...
 - o Do you know about the leaking tank?
 - o Do you have any particular questions about the site?
 - o Do you have any information about the site? (who was the last owner?, etc.)
 - o What rumors have you heard about the site or the site cleanup? (clarify any misinformation)
 - o How would you like to receive information about the site? A letter? Notice in a particular newspaper?
 - o What level of detail do you want about the site? (general update, or highly specific and technical?)
 - o Where is a good place for a public meeting? What is a good time of the day to hold a meeting?
 - o Where would be a good place for an information center? What sort of information would you like to see in it?
 - o Is there anybody else I should talk to get a different perspective on the site?
- * Leave a business card or the name and number of a contact person.

For those on the Contact List not interviewed...

- * notify each individual and group of site activities:
 - o encourage them to relay any comments or questions about the LUST to the agency.
 - o depending on the severity of the leak, the number of contacts, and the agency's resources, notify the contacts by phone or letter.

Determining Extent of Activities

- Public participation activities should always be conducted. However, the amount of effort needed to accomplish each of these objectives will vary by site. Each LUST site and each community will be different; public participation procedures will change for each site. The key to a successful public participation program is targeting activities to the distinctive needs of the community.

Ascertain the needs of a community outreach program based on the following criteria:

1) Site Factors:

- * Number of the tanks
- * Location of the tanks (unpopulated rural area or vast urban center)
- * Environmental damage the leak has caused (contaminated soil or contaminated aquifer)
- * Attitude of the responsible party (if one is found)

2) Level of Community Concerns.

3) Type of LUST Concerns:

- * Threat to health (both self and family)
- * Impact on economy (job loss?)
- * Affect on property values
- * Odor from leak
- * Aesthetics of cleanup
- * Affect on tourism

Draft Public Involvement Work Plan

Keeping the needs of a community in mind, the Work Plan targets the public participation activities that will most effectively disseminate information and deal with these concerns. The key to a successful public participation program is targeting activities to the distinctive needs of the community.

Chart 4 on the following page suggests a format for developing a Public Involvement Work Plan. It is based on Superfund's Community Relations Plan, which specifies in writing the activities the community relations staff will undertake at a given site. The plan is required by law (CERCLA, as amended), and is probably more detailed than is necessary for a LUST cleanup. Still, it provides a general strategy and a framework to work with when developing any sort of public participation program.

CHART 4

Sample Public Involvement Work Plan

I. Overview of Public Involvement Work Plan

This section provides a general introduction to the Work Plan by summarizing the plan's purpose and central features. This section should not be a repetition of general program goals (e.g., "Keep the community involved.")

II. Capsule Site Description

This section provides, in easily understood terms, the historical, geographical and technical details of the site (e.g., site location, date of release, nature of threat).

III. Community Background

This section describes the community and reviews its involvement with the site. Three topics should be covered:

- 1) Community profile: The economic and political structure of the community, and key community issues and interests.
- 2) Chronology of Community Involvement: How the community has reacted to the site, action taken by citizens, and attitudes toward government roles and responsibilities.
- 3) Key Community Concerns: An analysis of the community's concerns regarding the risks posed by the site.

IV. Highlights of the Public Participation Program

This section provides concrete details on public involvement approaches to be taken, which follows directly from Section III's discussion of the community and its perceptions of the site. More importantly, it should develop a strategy for communicating with a specific community.

V. Techniques and Timing

This section details which public involvement activities will be conducted at the site and when. It should also suggest additional techniques that, depending on circumstances, might be used at the site as the response action proceeds, and when they are likely to be most effective.

Appendices

- o Mailing list of interested parties and key contacts
 - o Suggested locations for Meetings and Information Centers
-

The Communications Strategy is merely an outreach of Parts IV and V of the Work Plan (above). It prevents misunderstandings and ensures activities are completed by detailing exactly who is responsible for each activity and when it should be completed. Chart 5 offers the format for a sample Communications Strategy.

[illegible]

V. SITE MILESTONES AND PUBLIC INVOLVEMENT ACTIVITIES

A well-thought-out public participation strategy allows the agency to conduct its public involvement competently. Generally, public participation activities will parallel certain site milestones.

Following is a checklist of the public involvement procedures to follow at any LUST site. Some of the activities should be conducted at every site, others only at sites with high community concerns. A thorough Public Involvement Assessment will suggest which activities are needed (see Part IV on page 8). The checklist should also be used to help avoid last-minute or poorly-planned activities.

Again, activities in boldface indicate more detailed information on that activity can be found in Part IX: Specific Public Involvement Activities. The checklist - which lists Site Milestones and suggested corresponding activities - is summarized in Chart 6 on page 19.

Checklist of Activities

MILESTONE #1: Identify LUST

- * **Designate a Contact Person** (before any field activity begins):
 - o fields all questions from citizens, officials and the media.
 - o assures agency addresses community concerns.
 - o coordinates all public involvement activities at site.
 - o coordinates all internal agency communication about the site.
 - o can be member of UST-LUST staff; ideally, assign one staff member to handle public involvement activities at all LUST sites.

MILESTONE #2: Agency Begins Active Work on the LUST Site

- * **Identify Affected Parties:**
 - o ALWAYS determine which individuals and businesses will be affected by the LUST.
- * **Contact Appropriate Individuals:**
 - o ALWAYS contact citizens and officials (by phone or letter) who may in any way be affected by the LUST or LUST cleanup. The area's congressperson and various elected officials will want to be able to answer any constituent questions concerning the site.

* **Publish a Public Notice⁵:**

- o ALWAYS let the public know about the site's existence, its threat to the environment/human health, and what the agency is doing about it - regardless of the site's size or impact.

* **Additional Activities:**

- o review LUST impact and level of community concern, and respond accordingly.
- o activities could include (in order of likelihood): Press Release; Fact Sheet; News Conference; Small Group Meeting; Public Meeting; Hotline.

**MILESTONE #3: Preliminary Technical Site Assessment
Conducted / Responsible Party Located**

* **Conduct Public Involvement Assessment (in conjunction with Technical Site Assessment):**

- o after identifying and contacting affected individuals, survey the entire community to determine their attitudes toward the LUST and LUST cleanup. See complete information on conducting the Public Involvement Assessment in Part IV (pages 8-14).
- o identify concerned citizens, officials and groups; in addition to the affected residents and businesses, various other individuals may be concerned about the site. See Chart 1 on page 9 for a sample list of contacts.
- o contact and interview relevant individuals; depending on the site, not all of the individuals identified above will need to be contacted. See Chart 2 on page 10 for suggestions on who to interview and Chart 3 on page 11 for sample interview questions.
- o from this Assessment, compile a Contact List to update people on new information.

* **Develop Public Involvement Work Plan and Communication Strategy:**

- o see sample Work Plan on page 13 and sample Strategy on page 14.

* **Establish an Information Center:**

- o 40 CFR § 280.67[b] requires the agency to "ensure site

⁵ A "Public Notice" could be any of the following activities: public notice or block advertisement in a local newspaper; public service announcements; publication in a State register; letters to individual households; or, personal contacts by field staff. See also page 33 in Part IX: Specific Public Involvement Activities.

release information and decisions affecting the corrective action plan are made available to the public for inspection upon request" - an Information Center is the easiest way to accomplish this.

- o organize a project file that allows convenient public access to all site-related documents and reports.
- o typical locations might be local public libraries or town halls; it could even be located at the agency office. Depending on the community itself, more than one Information Center may be desirable.
- o cite the location(s) of the Information Center in all agency publications.
- o agency staff can then easily refer both concerned citizens and the press to the Information Center for detailed information on the LUST site.

*** Additional Activities:**

- o refer to Public Involvement Work Plan: review LUST impact and level of community concern, and respond accordingly.
- o a **Fact Sheet** may be especially appropriate at this point.
- o other activities could include (in order of likelihood): **Press Release; News Conference; Small Group Meeting; Public Meeting; Hotline.**

MILESTONE #4: Work Plan for Corrective Action Submitted

*** Conduct Public Involvement Activities in Accordance with 40 CFR § 280.67 (See Appendix A, page 37):**

- o publish a **Public Notice** announcing the corrective action plan.
- o consider conducting a **Public Meeting** to hear comments about the corrective action plan if there is sufficient public interest.
- o publish a **Public Notice** when the approved corrective action plan does not achieve established clean-up levels and is considered being terminated.

*** Notify Individuals on Contact List of Milestone:**

*** Additional Activities:**

- o refer to Public Involvement Work Plan: review LUST impact and level of community concern, and respond accordingly.
- o a **Fact Sheet** or **Press Release** may be especially appropriate at this point. A **Public Notice**, though less effective, could also be published.
- o other activities could include (in order of likelihood): **News Conference; Small Group Meeting; Public Meeting; Hotline.**

MILESTONE #5: Cleanup of LUST Site

*** Notify Individuals on Contact List of Milestone:**

*** Additional Activities:**

- o refer to Public Involvement Work Plan: review LUST impact and level of community concern, and respond accordingly.
- o conduct a **Site Tour** if community shows high interest in LUST site.
- o a **Fact Sheet** or **Press Release** may be especially appropriate at this point.
- o other activities could include (in order of likelihood): **News Conference; Small Group Meeting; Public Meeting; Hotline.**

MILESTONE #6: LUST Site Clean

*** Notify Individuals on Contact List of Milestone:**

*** Additional Activities:**

- o refer to Public Involvement Work Plan: review LUST impact and level of community concern, and respond accordingly.
- o conduct a **Site Tour** if community shows high interest in LUST site.
- o a **Fact Sheet** or **Press Release** may be especially appropriate at this point. A **Public Notice**, though less effective, could also be published.
- o other activities could include (in order of likelihood): **News Conference; Small Group Meeting; Public Meeting; Hotline.**

CHART 6
Site Milestones and Public Involvement Activities

Site Milestones	Required Activities ¹	Suggested Activities ²	Additional Activities ³
1-Identify LUST		*Contact Person	
2-Begin Active Work on LUST Site		*Identify Affected Parties and Notify *Public Notice	*Press Release *Fact Sheet *News Conf. *Sm. Group Mtg. *Public Mtg. *Hotline
3-Preliminary Site Assessment Completed - Responsible Party Identified		*P.Inv. Assess. *Pub. Involve. Work Plan *Information Center *Fact Sheet	*Public Notice *Press Release *News Conf. *Sm. Group Mtg. *Public Mtg. *Hotline
4-Work Plan for Corrective Action Submitted	*Public Notice *Information Center *Public Mtg. - under certain conditions (see <u>Appendix A</u> , page 37)	*Notify Parties on Contact List *Fact Sheet *Press Release	*Public Notice *News Conf. *Sm. Group Mtg. *Public Mtg. *Hotline
5-Cleanup of LUST Site		*Notify Parties on Contact List *Fact Sheet *Press Release	*Site Tour *News Conf. *Sm. Group Mtg. *Public Mtg. *Hotline
6-LUST Site Clean		*Notify Parties on Contact List *Fact Sheet *Press Release	*Site Tour *Public Notice *News Conf. *Sm. Group Mtg. *Public Mtg. *Hotline

-
- ¹ Activities required under 40 CFR § 280.67.
² Strongly suggested activities for any site.
³ Other activities that may appropriate, depending on the site and community.

SUGGESTIONS FOR SUCCESS

- Part VI: Dealing with the Public:
Public Meetings and Conflict Management
- Part VII: Dealing with the Media: Tips for Success
- Part VIII: Working with Limited Resources

VI. DEALING WITH THE PUBLIC

Public Meetings and Conflict Management

The potential for conflict between the community and the agency during the cleanup of a LUST is high. Too often, government agencies are seen as the "bad guy" - as not committed to truly cleaning up a site, but only to doing the minimum amount of work necessary. Several techniques can help reduce this potential conflict - both at possibly volatile Public Meetings and during the entire community outreach effort.

Public Meetings

Large Public Meetings tend to be one of the most frequent types of public involvement activities, although they are also the most difficult to conduct successfully. While they allow the agency to establish two-way communication with a large number of people, these meetings can also intensify conflicts and easily get out of control.

If the sole reason for the Meeting is merely to educate the public, consider whether other communication techniques might be more effective. **Small Group Meetings** with individual groups are usually much more successful. Also, one-on-one meetings or **Briefings** can prove effective.

Still, if a Public Meeting must be held, several guidelines should be followed to make the Meeting as effective as possible. For specific information on setting up a Meeting, refer to page 32 in Part IX: Specific Public Involvement Activities.

* Background:

- o know the community
- o know what the audience wants to know

* Issues to expect:

- o health and health risks
- o distrust of the environmental agency
- o quality of life
- o who to blame (beware of the public's tendency to make the Meeting a witch-hunt or public trial)
- o reliability of clean-up technology (safe? proven?)
- o how clean is clean? what standards are used?

* Written Presentation:

- o organize material logically
- o stress 2-3 main points
- o clarify, simplify
- o be clear on how people can have an impact
- o use visual aids whenever possible
- o keep it short

*** Verbal Presentation:**

- o face the audience; have eye contact
- o use natural voice and effective hand gestures
- o be actively attentive
- o be aware of your nervous habits
- o DON'T: cross arms
whisper to others
pace or fidget
yawn

*** Questions:**

- o leave plenty of time for questions
- o anticipate questions and prepare responses
- o decide who will answer which types of questions
- o use examples and specifics in answering questions
- o admit it when you don't know an answer; let the person know when you will get back to him or her

Minimizing Conflict: Approach to the Public

Conflict can be managed and mitigated if its potential is initially recognized. The agency can help minimize future conflict by taking the following approaches to the community and their concerns:

*** Be PROACTIVE, not reactive.**

It is impossible to predict how any given community will react to a nearby LUST site. Thus, some level of public involvement must always be conducted. Keep on top of the situation during the quiet times. The wrong thing to do is nothing; when public participation gets reactive, the agency invites trouble.

*** See the community as part of the solution, not as an obstacle to it.**

Community members will make constructive comments about the clean-up process - often improving upon the agency's ideas. Their input is helpful, and thus their comments are not merely a "rubber-stamp approval" of agency decisions.

*** Provide an empathetic response.**

Always remember how you would react if a similar situation occurred in your community. Never view the community as us versus them. Listen.

*** Use informal communication techniques.**

Informal interviews or meetings in a living room, or frequent telephone calls are best at ensuring open and candid communication.

*** Designate a Contact Person.**

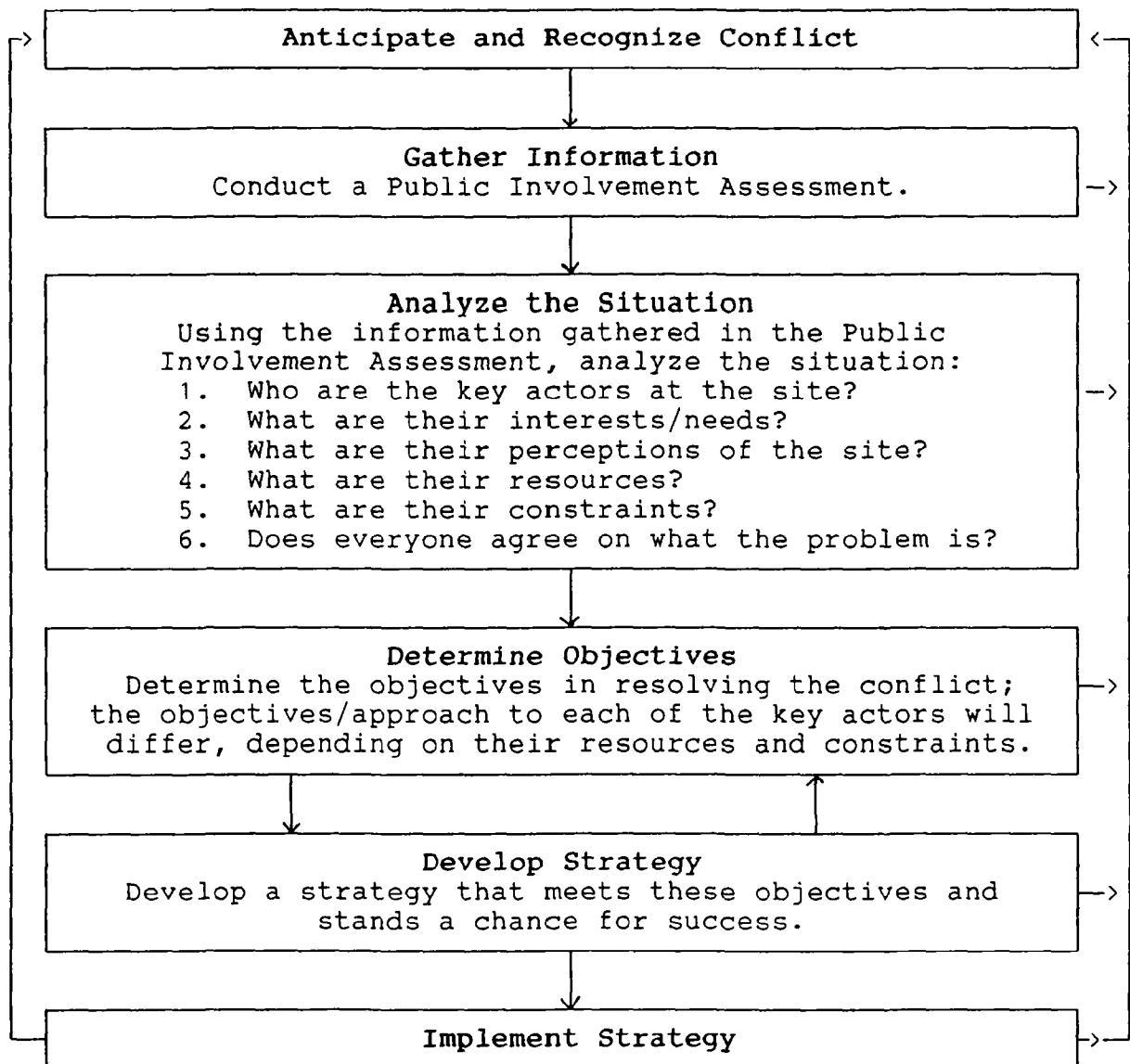
See "Milestone #1" on page 15 (Part V: Site Milestones and Public Involvement Activities) for more information.

Resolving Conflict

Remaining helpful and responsive to local concerns mollifies friction between the community and the agency. However, the agency can still do everything possible to conduct effective community relations, and still have problems.

Thus, dealing with conflict can be the most difficult aspect of public involvement activities. The following Chart suggests a process for analyzing this conflict and developing the best approach to resolving it. Only by thoroughly studying the conflicts involved at a site can an effective solution be found.

CHART 7



This process is a flexible process. Managing conflict requires constant re-evaluation. If the original strategy doesn't work, re-evaluate the objectives, or even re-analyze the situation, in developing a new strategy. Repeat any of these steps until the conflict is finally resolved.

VII. DEALING WITH THE MEDIA

Tips for Success

Media plays by its own rules in covering events. Remember the following observations when factoring the media into a public participation plan:

- * media interest is sporadic
- * media covers conflicts and events/happenings
- * it is nearly impossible to keep secrets
- * in a story, emotions always win out over reason

Identifying Appropriate Media

While most Americans get most of their news from radio/TV...
...viewers understand only 1/3 of TV news stories
...only 52% ever see local or network TV
...viewers watch only 55% of what is shown on TV

In contrast, 67% still get "news" from newspapers. The print media provides detailed information in any story; coverage is intelligent and complete. On the other hand, TV coverage tends to be brief; it plays on emotions and generally focuses on only the most interesting/controversial aspect of the story. TV news can also be immediately relayed to the public.

Strategy

- o Reduce the potential for problems:
 - * have a positive attitude.
 - * treat reporters with respect and honesty; develop personal relationships.
 - * expect the media to play a role in the clean-up process.
 - * work around "problem reporters."
- o Develop a clear channel to the public; minimize "filtering" by the reporter:
 - * use live TV, when possible.
 - * package information (statements, releases, and fact sheets) to prevent misunderstandings.
 - * speak in "reverse" - say your most important information first.
- o Identify best means for getting media coverage:
 - * realize TV plays on emotions, print on intellect.
 - * be competent and knowledgeable.
 - * a letter suggesting a story is better than a release.

News Interviews (for stories, or while appearing on a TV/radio broadcast)

- o Decide what you want to say:
 - * list key points you want to make.

- * identify points of confusion, and develop clarifying examples.
- o **Anticipate questions you think reporter will ask:**
 - * outline responses to the questions.
 - * develop answers to potential hostile questions as well.
- o **Make the your statements PERSONAL:**
 - * be empathetic ("I'm personally concerned...").
 - * use colorful language; colorful quotes run verbatim in the press.
 - * talk in pictures; make your points memorable.
- o **Stay out of trouble:**
 - * know when to shut up.
 - * always stay "on the record."
 - * if you expect problems, have someone else also present and/or record the interview.

Problems

- o **When they "blow" the story...**
 - * best often to let it go.
 - * try to correct mistake (perhaps through "Letter to the Editor" or simply calling the reporter/editor with specifics).
 - * after two mistaken stories, avoid using that newspaper/station again.
- o **Preventing misquotes:**
 - * take your time.
 - * stick to facts; don't ramble.
 - * if you don't know, say so.
 - * assume everything will be quoted.
 - * issue a written statement.
- o **Traps to watch out for:**
 - * Contradictions: use one spokesperson.
 - * The "Empty Chair" ("Mayor Smith says you're stalling"): don't respond to comments by individuals not present; say you haven't seen remarks.
 - * Speculations ("What if the water becomes contaminated?"): don't get involved in speculation; explain you will keep monitoring the situation.
 - * Inconsistencies ("You said last year this would never happen"): explain changes are based on new information, or policy based on new information.

VIII. WORKING WITH LIMITED RESOURCES

Attention must always be given to public participation activities, even though resources - both financial and program personnel - will always be limited. Developing a communication strategy that is both effective for the community and workable for the government agency may be difficult, but it is possible.

Efficiency

Thorough, efficient work remains the key to working with limited resources. Agency staff must carefully organize events and publications. Speakers should be prepared and their speeches coherent, and **Fact Sheets** should describe the situation in understandable terms. Guaranteeing these activities are done competently the first time can prevent misunderstandings in the community and the need for additional activities. Further, use **Fact Sheets**, information centers, and other activities to their fullest potential. Constantly refer interested citizen, reporters, or officials to these activities.

Using Existing Groups/Publications

Taking advantage of existing lines of communication in a community can also save time and expense. Use the publications and mailing lists of established community organizations to help compile a list of interested citizens and to inform the community of site activities. These organizations can also help organize and publicize meetings. Such groups include:

- o Local civic or environmental groups
- o Rotary clubs
- o Church organizations
- o Local trade associations, farmers' associations, and cooperatives
- o The League of Women Voters

These are just a few of the possibilities to consider in working around the agency's limited resources; creative thinking will yield others. Just remember that conducting some sort of public participation program is essential - even if it is as simple as publishing a **Public Notice**, notifying affected individuals, and talking to a few residents and officials.

Keeping the community involved from the beginning - regardless of the site's significance and even when the community shows little interest - can prevent future problems later. Some outreach program is always better than no outreach program; again, being responsive to the affected community must be a significant aspect of any clean-up action. The level of anger and frustration is almost certain to be higher in a community that has been "shut out" or ignored than a community that has had a voice in the process.

ACTIVITIES

Part IX: Specific Public Involvement Activities

IX. SPECIFIC PUBLIC INVOLVEMENT ACTIVITIES

The final pages in this handbook describe possible elements of a public involvement program. They provide an explanation of how to conduct the activity, and indicate what each should accomplish. Perhaps more useful, they also contain observations and suggestions from Superfund Community Relations staff on the benefits and limitations of each activity.

Based on agency resources and the specific conditions at the site, any or all of these activities could be implemented as part of a public participation program. The Public Involvement Assessment will suggest which activities would be most appropriate. Many of them will be used often; some may never be used. But with the variety of conditions at LUST sites, flexibility is essential.

Use this section to help decide whether and when to conduct a certain type of public involvement activity. The section also contains numerous suggestions on making the activities as successful as possible. Again, much of this information is based on Superfund experiences, which have provided considerable insight - based on trial-and-error - about which approaches and activities are more useful, and which may be less so.

. This section examines the following public participation approaches:

-Briefings.....	page 28
-Fact Sheets.....	29
-News Conferences.....	30
-Press Releases.....	31
-Public Meetings.....	32
-Public Notices.....	33
-Site Tours.....	34
-Small Group Meetings.....	35
-Telephone Hotlines.....	36

BRIEFINGS

Brief sessions held with key officials and citizens to provide information on site activities and agency decisions.

When Appropriate/Accompanying Activities

- * when State or local officials or citizens have expressed a moderate to high level of concern about the site.
- * at any point during the cleanup - especially when unexpected events or delays occur at the site.
- * before **Public Meetings / Small Group Meetings**.
- * before **News Conferences**.

Technique

- * inform key officials, citizens, and other interested parties ahead of time of a briefing concerning recent activities at the site or other related topics.
- * present a short, official statement and answer questions about it. Anticipate questions and be prepared to answer them simply and directly.

Benefits

- * allow local officials and citizens to question the agency directly about any activity prior to public release of information regarding that activity.
- * better prepare officials and citizen leaders to answer questions from their constituents when the information becomes public.
- * exchange information and concerns.

Limitations

- * can cause bad feelings or bad publicity if some individuals who believe they should be invited to the Briefings are not.
- * should always be complemented by activities that inform the general public, as well (e.g., **Small Group Meetings** or **Public Meetings**).

FACT SHEETS

A brief report presenting information in a clear and understandable format to help ensure the public remains informed about the site and site activities.

When Appropriate/Accompanying Activities

- * at particular phases of the clean-up process, or as an update on a regular basis (e.g., monthly).
- * when discussing a specific site activity, should be issued **two weeks** before the event occurs.
- * as useful background information when distributed at **Public Meetings or Small Group Meetings**.
- * always include the name of the Contact Person and the location of Information Center.

Technique

- * types of information to transmit in a Fact Sheets:
 - o any background information on the site
 - o a calendar of upcoming events
 - o a description of the issues or problems associated with the site
 - o a description of the corrective action plan
 - o reports on public participation opportunities, and how to join them
 - o relevant articles reprinted from other publications
 - o any new information about the site or its cleanup
- * write clearly and directly; keep sentences simple and use active verbs.
- * avoid using technical terminology or professional jargon.
- * limit the length of the material. Be concise.
- * use graphs, maps, and illustrations to break-up text.

Benefits

- * summarize vital facts and issues effectively and briefly.
- * ensure the community remains informed.

Limitations

- * require time and dedication; a poorly written Fact Sheet can be misleading or confusing.
- * must be easy to read - people will be less likely to read a solid sheet of typed text than a Fact Sheet that has been typeset with clear, easy-to-read illustrations. Moreover, a well-designed Fact Sheet suggests that the agency is taking its community relations program seriously.

NEWS CONFERENCES

Information sessions or briefings held for representatives of the news media, but also open to the general public, to provide accurate information concerning important site developments.

When Appropriate/Accompanying Activities

- * always evaluate the need for a News Conference - statements made during a News Conference may be misinterpreted by the media.
- * primarily to make significant announcements about the site.
- * issue a **Press Release** (helps ensure facts are presented accurately to the media).

Technique

- * notify participants:
 - o contact members of the local and regional media
 - o indicate time, location, and topic
 - o invite local officials, either as observers or participants
- * plan exactly what to say ahead of time: live Conferences leave no room for mistakes.
- * present a short, official statement (both written and spoken) explaining the decision and identifying next steps.
- * open the conference to questions:
 - o have agency officials, technical staff, and any other experts present.
 - o anticipate reporter's questions; have answers ready.
 - o decide ahead of time who will answer what types of questions.

Benefits

- * provide a public forum for the agency to announce plans and developments.
- * efficiently reach a large audience - especially when a written **Press Release** is also issued.

Limitations

- * can focus considerable attention on the situation, potentially causing unnecessary local concern.
- * can create false impressions when media take comments out of context, agency staff are unprepared, or unanticipated questions are asked.

PRESS RELEASES

Documents released to the news media that discuss on-site actions proposed by the agency.

When Appropriate/Accompanying Activities

- * when information must be quickly distributed to large numbers of people.
- * always issued at News Conferences.
- * could announce Public Meetings and report the results of these meetings.
- * used to announce only the most routine matters; for more important stories, phone in the information.

Technique

- * identify the relevant media:
 - o learn the various publication deadlines
 - o identify the appropriate media contacts
- * coordinate all facts with other relevant agencies.
- * in writing the release, place the most important elements up front and present additional information in descending order of importance.
- * must be brief - only essential facts and issues (no more than two pages).
- * avoid using professional jargon and overly technical words.
- * place at the top of the sheet:
 - o name and address of the issuing agency
 - o release time ("For Immediate Release" or "Please Observe Embargo Until...") and date
 - o name and phone number of the Contact Person
 - o a headline summarizing the Release

Benefits

- * reach a larger audience quickly and inexpensively.

Limitations

- * not the most effective way to communicate news; phone calls or letters work better.
- * because Press Releases must be brief, they should be used in conjunction with other methods of communication with the public to permit more attention to detail.
- * can focus considerable attention on the situation, potentially causing unnecessary local concern.

PUBLIC MEETINGS

A large meeting open to the public that informs citizens of site activities. Experts are available to present information and answer questions. Citizens may ask questions and offer comments. Part VII: Dealing with the Public also contains suggestions on preparing for a Public Meeting -- see "Public Meetings" on pages 20-21.

When Appropriate/Accompanying Activities

- * conduct Public Meetings when:
 - o the agency wishes to inform a large number of people and/or has a large amount of information to distribute.
 - o community members demonstrate high concern and interest in a LUST site or its Corrective Action Work Plan (refer to 40 CFR § 280.67[c] -- see Appendix A, page 37).
 - o the agency wants to reach a large number of people at once.
- * announce the meeting **two weeks** in advance:
 - o place a **Public Notice** in the local newspapers.
 - o when possible, distribute flyers to individuals on the agency's Contact List.
- * distribute background materials - **Fact Sheets**, maps, graphs, etc. - at the meeting.

Technique

- * draw up an agenda:
 - o detail specific issues to be considered or specific tasks that must be accomplished at the Meeting.
 - o anticipate the level of participation expected, and structure the meeting accordingly.
- * keep the entire agency presentation short (everybody in less than an hour), and rehearse in advance.
- * allocate plenty of time for citizens to express their concerns and ask questions.
- * prepare a transcript to be made available to the public and announce how the transcript can be obtained.

Benefits

- * allow two-way interaction between the public and the agency.
- * may provide a setting for the agency and community to resolve their differences.

Limitations

- * often intensifies conflicts rather than resolves them.

PUBLIC NOTICES

Announcements of agency decisions, major project milestones, and Public Meetings. Public Notices are required for certain activities under 40 CFR § 280.67 - see Appendix A for specifics.

When Appropriate/Accompanying Activities

- * use Public Notices to
 - o provide official announcement of agency activities (e.g, the holding of a Public Meeting, publication of Fact Sheets, or creation of an Information Center).
 - o encourage public involvement in these activities.
 - o announce the selection of a corrective action plan for the site or notify the public when the approved corrective action plan does not achieve established clean-up levels and is considered being terminated (in accordance with 40 CFR §§ 280.67[a] and [d]).
- * should occur at least two weeks in advance of the event.

Technique

- * the Notice could take any of the following forms:
 - o public notice in a local newspaper
 - o public service announcements
 - o letters to or personal contact with affected households
- * design the Notice:
 - o use eye-catching headlines or photographs.
 - o stress why public involvement is important; highlight the environmental or health issues.
 - o follow guidelines for clarity and brevity in the preceding section on Fact Sheets (page 29).
 - o provide name and phone number of the Contact Person.
- * distribute the Notice through direct mail:
 - o send to individuals on agency Contact List.
 - o the largest number of people hear about meetings through the mail, rather than through the media.
- * distribute the Notice to the print and broadcast media:
 - o determine the most appropriate means of contacting the affected community (how many people to be reached?).
 - o ask individual papers and stations about the most effective means for displaying the Notice. Many radio and television stations often provide free public service announcements.
 - o be aware that many local or community newspapers are published on a weekly or bi-weekly basis.

Benefits

- * are a simple means of alerting the public to notable events.

Limitations

- * should rarely be the agencies only contact with the public.

SITE TOURS

Scheduled trips to the site for media representatives, local officials, and citizens during which technical and community relations staff answer questions.

When Appropriate/Accompanying Activities

- * whenever officials or citizens have expressed concern over site clean-up activities.
- * report citizen impressions of the tour, if suitable, in a **Fact Sheet** or **News Release**.

Technique

- * invite appropriate people from the Public Involvement Assessment Contact List:
 - o concerned citizens, nearby residents, representatives of public interest or environmental groups, and interested local officials
 - o representatives of local citizen or service groups
 - o representatives of local newspapers, television stations, and radio stations
- * determine the maximum number that can be taken on the site safely; schedule additional tours as needed.
- * anticipate questions and have someone available to answer technical questions in non-technical terms.
- * ensure that the tour complies with safety standards for the site.

Benefits

- * familiarize the media, local officials, and citizens with the site and the individuals involved in clean-up operations.
- * may dispel unreasonable fears about the risks of the site.

Limitations

- * require considerable staff time to prepare the explanation of site activities and to escort citizens through the site.

SMALL GROUP MEETINGS

Meetings of small groups held in private homes or in local meeting places. These meetings inform citizens and local officials of site activities, answer questions, and clear up any misconceptions or misunderstandings in an informal atmosphere.

When Appropriate/Accompanying Activities

- * community members demonstrate high concern and interest in a LUST site or its clean-up activities.
- * in place of a large Public Meeting.
- * use the Public Involvement Assessment Contact List to locate interested citizen groups.

Technique

- * limit attendance to between 5 and 20 individuals.
- * select a meeting date, time and place:
 - o a private home or public library meeting room may be more conducive to an exchange of ideas than a large or formal public hall.
 - o be sure the meeting location does not conflict with State "sunshine laws." (For instance, a State may require all meetings between agency officials and the public to be held in a public location.)
- * gear the meeting towards discussion:
 - o listen - find out what the citizens want done.
 - o discuss the possibility for compromise or explain the reasons why citizen requests appear to be unworkable or conflict with program requirements.
- * stay in touch with the groups:
 - o follow-up on any major concerns.
 - o contact any new groups that form.

Benefits

- * provide an audience that is usually homogenous and shares the same concerns.
- * encourages candid discussion and fosters exchange.
- * not as prone to conflict as large Public Meetings.

Limitations

- * uses much staff time to reach a limited number of citizens; a series of meetings may be necessary.
- * can be seen as exclusionary - some groups may perceive these meetings as a "divide and conquer" tactic to prevent large groups from exerting influence on potential actions.

TELEPHONE HOTLINES

A toll-free telephone number that provides citizens with an opportunity to ask questions and obtain information promptly about site activities.

When Appropriate/Accompanying Activities

- * whenever community concerns are especially high.
- * announce in a **Public Notice** and/or **Press Release**.
- * list in all agency publications (**Fact Sheets**, **Public Notices**, etc.) and mentioned at all **Public Meetings**.

Technique

- * assign one or more staff members to handle the calls.
- * if staff are not available throughout the day, install an answering machine; check the answering machine for messages at least once a day.
- * keep a written record of each question, when it was received, and how and when it was answered.

Benefits

- * provide citizens with a relatively quick means of expressing their concerns directly to the agency and getting their questions answered.
- * help monitor community concerns; a sudden increase in calls could indicate that additional public involvement efforts are warranted.

Limitations

- * since each call must be responded to quickly, hotlines could prove burdensome to agency staff - especially if the number of calls is high.
- * could irate or alienate some callers who don't like hearing a recorded message.

APPENDIX A

CODE OF FEDERAL REGULATIONS PART 280 SECTIONS 280.60 THROUGH 280.67

Subpart F Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

* * * * *

§ 280.60 General.

Owners and operators of petroleum or hazardous waste substance UST systems must, in response to a confirmed release from the UST system, comply with the requirements of this Subpart to RCRA Subtitle C corrective action requirements under Section 3004(u) of the Resource Conservation and Recovery Act, as amended.

§ 280.61 Initial Response.

Upon confirmation of a release in accordance with § 280.52 or after a release from the UST system is identified in any other manner, owners and operators must perform the following initial response actions within 24 hours of a release or within another reasonable period of time determined by the implementing agency:

- (a) Report the release to the implementing agency (e.g., by telephone or electronic mail);
- (b) Take immediate action to prevent any further release of the regulated substance into the environment; and
- (c) Identify and mitigate fire, explosion, and vapor hazards.

§ 280.62 Initial abatement measures and site check.

- (a) Unless directed to do otherwise by the implementing agency, owners and operators must perform the following abatement measures:
 - (1) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;
 - (2) Visually inspect any aboveground release or exposed belowground releases and prevent further migration of

the released substance into surrounding soils and ground water;

- (3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);
 - (4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator must comply with applicable state and local requirements.
 - (5) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the site check required by § 280.52(b) or the closure site assessment of § 280.72(a). In selecting sample types, sample locations, and measurement methods, the owner and operator must consider the nature of the stored substance, the type of backfill, depth to the groundwater and other factors as appropriate for identifying the presence and source of the release; and
 - (6) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with § 280.64.
- (b) Within 20 days after release confirmation, or within another reasonable period of time determined by the implementing agency, owners and operators must submit a report to the implementing agency summarizing the initial abatement steps taken under paragraph (a) and any resulting information or data.

§ 280.63 Initial Site Characterization

- (a) Unless directed to do otherwise by the implementing agency, owners and operators must assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in § 280.60 and § 280.61. This information must include, but is not necessarily limited to the following:
- (1) Data on the nature and estimated quantity of release;

- (2) Data from available sources and/or site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions, and land use;
 - (3) Results of the site check required under § 280.62(a)(5); and
 - (4) Results of the free product investigations required under § 280.62(a)(6), to be used by owners and operators to determine whether free product must be recovered under § 280.64.
- (b) Within 45 days of release confirmation or another reasonable period of time determined by the implementing agency, owners and operators must submit the information collected in compliance with paragraph (a) of this Section to the implementing agency in a manner that demonstrates its applicability and technical adequacy, or in a format and according to the schedule required by the implementing agency.

§ 280.64 Free product removal.

At sites where investigations under § 280.62(a)(6) indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable as determined by the implementing agency while continuing, as necessary, any actions initiated under §§ 280.61 through 280.63, or preparing for actions required under §§ 280.65 through 280.66. In meeting the requirements of this Section, owners and operators must:

- (a) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, state and federal regulations;
- (b) Use abatement of free product migration as a minimum objective for the design of the free product removal system;
- (c) Handle any flammable products in a safe and competent manner to prevent fires or explosions;
- (d) Unless directed to do otherwise by the implementing agency, prepare and submit to the implementing agency, within 45 days after confirming a release, a free product removal

report that provides at least the following information:

- (1) The name of the person(s) responsible for implementing the free product removal measures;
- (2) The estimated quantity, type, and thickness of free product observed or measured in wells, boreholes, and excavations;
- (3) The type of free product recovery system used;
- (4) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;
- (5) The type of treatment applied to, and the effluent quality expected from, any discharge;
- (6) The steps that have been or are being taken to obtain necessary permits for any discharge; and
- (7) The disposition of the recovered free product.

§ 280.65 Investigations for soil and ground-water cleanup.

- (a) In order to determine the full extent and location of soils contaminated by the release and the presence and concentrations of dissolved product contamination in the ground water, owners and operators must conduct investigations of the release, the release site, and the surrounding area possibly affected by the release if any of the following conditions exist:
 - (1) There is evidence that ground-water wells have been affected by the release (e.g., as found during release confirmation or previous corrective action measures);
 - (2) Free product recovery is found to need recovery in compliance with § 280.64;
 - (3) There is evidence that contaminated soils may be in contact with ground water (e.g., as found during conduct of the initial response measures or investigations required under §§ 280.60 through 280.64); and
 - (4) The implementing agency requests an investigation, based on the potential effects of contaminated soil or ground water on nearby surface water and ground-water resources.

- (b) Owners and operators must submit the information collected under paragraph (a) of this Section as soon as practicable or in accordance with a schedule established by the implementing agency.

§ 280.66 Corrective action plan.

- (a) At any point after reviewing the information submitted in compliance with §§ 280.61 through 280.63, the implementing agency may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils and ground water. If a plan is required, owners and operators must submit the plan according to a schedule and format established by the implementing agency. Alternatively, owners and operators may, after fulfilling the requirements of §§ 280.61 through 280.63, choose to submit a corrective action plan for responding to contaminated soil and ground water. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the implementing agency, and must modify their plan as necessary to meet this standard.
- (b) The implementing agency will approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health, safety, and the environment. In making this determination, the implementing agency should consider the following factors as appropriate:
 - (1) The physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;
 - (2) The hydrogeologic characteristics of the facility and the surrounding area;
 - (3) The proximity, quality, and current and future uses of nearby surface and ground water;
 - (4) The potential effects of residual contamination on nearby surface water and ground water;
 - (5) An exposure assessment; and
 - (6) Any information assembled in compliance with this subpart.
- (c) Upon approval of the corrective action plan or as directed by the implementing agency, owners and operators must implement the plan, including modifications to the plan made

by the implementing agency. They must monitor, evaluate, and report the results of implementing the plan in accordance with a schedule and in a format established by the implementing agency.

- (d) Owners and operators may, in the interest of minimizing environmental contamination and promoting more effective cleanup, begin cleanup of soil and ground water before the corrective action plan is approved provided that they:
 - (1) Notify the implementing agency of their intention to begin cleanup;
 - (2) Comply with any conditions imposed by the implementing agency, including halting cleanup or mitigating adverse consequences from clean-up activities; and
 - (3) Incorporate these self-initiated clean-up measures in the corrective action plan that is submitted to the implementing agency for approval.

§ 280.67 Public Participation.

- (a) For each confirmed release that requires a corrective action plan, the implementing agency must provide notice to the public by means designed to reach those members of the public directly affected by the release and the planned corrective action. This notice may include, but is not limited to, public notice in local newspapers, block advertisements, public service announcements, publication in a state register, letters to individual households, or personal contacts by field staff.
- (b) The implementing agency must ensure that site release information and decisions concerning the corrective action plan are made available to the public for inspection upon request.
- (c) Before approving a corrective action plan, the implementing agency may hold a public meeting to consider comments on the proposed corrective action plan if there is sufficient public interest, or for any other reason.
- (d) The implementing agency must give public notice that complies with paragraph (a) above if implementation of an approved corrective action plan does not achieve the established clean-up levels in the plan and termination of that plan is under consideration by the implementing agency.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
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Ref: 8HWM-RM

TO: James J. Scherer, Regional Administrator
Nola Cooke, Director, Office of External Affairs
Division Directors:
Kerrigan G. Clough, Policy and Management
Irwin L. Dickstein, Air and Toxics
Max H. Dodson, Water Management
Robert Duprey, Hazardous Waste Management
James B. Lehr, Environmental Services

FROM: Debra Ehlert, Chief *Debra Ehlert*
UST Program Section

SUBJECT: LUST Public Participation Handbook

EPA's approach to the Underground Storage Tank problem, unlike most of its other regulatory programs, emphasizes State and local implementation. Because of the vast regulatory scope and the variety of conditions, only States can effectively oversee management of existing tanks and ensure prompt cleanup of leaking tanks.

To help with the task of cleaning up leaking tanks, Congress created the Leaking Underground Storage Tank (LUST) Trust Fund. All Region 8 States have entered into a Cooperative Agreement with the EPA to help administer these funds. As part of their Agreements, States were also delegated the task of developing a public participation plan to deal with leaking tanks.

Realizing, however, many States may have had difficulty completing this task, the Region 8 UST Program has prepared a LUST Public Participation Handbook (attached).

The Handbook contains a simple framework for formulating a plan. Moreover, it discusses in detail the appropriate public activities any LUST public participation plan should address. The Handbook can also serve as a reference manual for use when actually conducting public involvement activities; it offers tips and information for successfully implementing the plan.

EPA's extensive suggestions for community outreach have been simplified and condensed into just over 30 pages. By carefully reading and referencing the Handbook, States can hopefully begin active work on their public participation plans.

- Region 8 has always realized the importance of public participation in any EPA activity, and we hope this Handbook encourages various programs to re-think their own approaches to community outreach.

Attachment

cc: w/attachment
Charles Mooar