



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

MAY 7 1991

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE
OSWER Directive No. 9834.16

MEMORANDUM

SUBJECT: Model Informational Notice Letter to Local Governments

FROM:  Don R. Clay
Assistant Administrator 

TO: Regional Administrators
Regions I-X

This memorandum transmits to you a model letter that provides information to municipalities and other local governments about EPA's activities at a Superfund site. The purpose of the model letter is to inform these parties about potential Superfund actions in which they might have an interest and to provide relevant information about the site. The model letter can be used now, but we ask that you review it and provide us with your suggestions for improvement, particularly in assuring that it is informational and not intimidating. If there are any provisions which you think present serious problems, please contact us immediately.

On December 12, 1989, EPA published the "interim municipal settlement" policy in the Federal Register, 54 FR 51071; Dec. 12, 1989. The policy clarifies how EPA will address municipalities and municipal wastes in the Superfund settlement process. Although the policy addresses many issues concerning a municipality's involvement in the CERCLA enforcement process, the policy does not discuss how to provide information to municipalities that do not receive general or special notice letters. Municipalities in these situations may not receive important information about EPA's enforcement activities at the site. Other governmental entities who have no potential liability may also have an interest in the activities being undertaken at a site. This letter may be used to inform these parties of EPA's activities at a Superfund site.

In comments on the Interim Municipal Settlement Policy and elsewhere, the International City Management Association and the National League of Cities have requested that municipalities be provided with the information contained in the model letter. In addition, the Administrator, William Reilly, recently assured the National League of Cities that such information would be provided.

Therefore, I strongly urge you to use this letter in appropriate circumstances. I also urge you to share, to the

maximum extent practicable, EPA's information about the site with any municipality or other local government that may be associated with or otherwise have an interest in the site.

I hope you find the model letter useful. For more information about the model letter or to provide us with your comments, please call me or have your staff call Natalie Eades at (Mail Code - OS-510) FT 245-3655. Thank you for your attention to this matter.

Attachment

cc: Waste Management Division Directors
CERCLA Branch Chiefs
Bill White, Office of Enforcement

[Model Informational Notice to Local Governments of Response Actions]

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region []

[Address]

NOTICE OF EPA ACTIONS UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

[Date]

[Name and address of Municipality or other local government]

RE: [name and location of the site]

Dear [Send to the mayor and/or city manager; cc: city attorney or other appropriate official]:

This letter informs you that the United States Environmental Protection Agency ("EPA") is conducting response actions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) at the [name of the site] in [county], [State] (the "Site"). CERCLA, commonly known as "Superfund", gives EPA the authority to take actions to protect public health, welfare, and the environment, and to abate or minimize the impacts of a release or threat of release of a hazardous substance at a Superfund site. In addition, it gives EPA the authority to sue for recovery of any funds spent to clean up a Superfund site.

Because of the potential impact on your community, the [City, Town, County] of [] (the "City", "Town" or "County") is encouraged to stay informed about the activities relating to the Site. This letter provides you with information to assist you in following these activities.

This letter is not a notice of potential liability under section 107(a) of CERCLA. However, EPA's information indicates that the City may have an interest in the Site. [Insert a sentence indicating what type of interest the city has in the site.] Optional language (To the Regions: If you have information indicating that the City might be liable include this language, if

not use your best judgment as to whether or not to include this language): [If, in the future, EPA obtains site-specific information indicating that you are a potentially responsible party (PRP), you may receive notice to that effect by a separate letter. This letter is simply to inform the City of EPA's activities at the Site and to provide the City with certain background information about the Site.]

Optional language (To the Regions: Please include this language if you believe that the City might not be aware of this possibility): [Although EPA might not name you as a PRP, you should be aware that other PRPs may take the position that the City is responsible for costs associated with clean-up activities undertaken at the site and may pursue the City for a share of the costs.]

Given the City's potential interest in activities at the Site, EPA encourages the City to remain fully aware of the actions to be implemented at the site. In particular, we encourage the City to review all documents produced and to comment on them, where appropriate.

To assist the City in following the activities relating to the Site, we are providing you with some background information. EPA [will perform] [has performed] the following activities at [the site]: [note to the Regions: This letter should be sent as soon as possible after you learn of the municipality's interest. Depending on when this letter is sent out, it might be appropriate to send subsequent letters advising of the progress of response actions.] [Briefly describe EPA's involvement at the site, including for example]:

1. On or about _____, 19 __, EPA completed a preliminary assessment/site investigation (PA/SI). The PA/SI revealed a release or threat of release of hazardous substances from the site.
2. On _____, 19 __, (Fed. Reg. _____), pursuant to section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed [proposed to place] the site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B.
3. From about _____, 19 __, to about _____, 19 __, EPA [or the PRPs] undertook a Remedial Investigation and Feasibility Study (RI/FS) for the Site pursuant to CERCLA and the National Contingency Plan, 40 C.F.R. Part 300. The purpose of the RI/FS was to define the nature and extent of contamination at the site and to identify alternatives for remediating the site.

4. Pursuant to section 117 of CERCLA, 42 U.S.C. § 9617, EPA published notice of the completion of the feasibility study and of the proposed plan for remedial action on _____, 19____, and provided an opportunity for public comment on the proposed remedial action.
5. EPA's final decision on the remedial action to be implemented at the site is embodied in a "record of decision" (ROD) that was executed on _____, 19____. [modify as appropriate to account for multiple ROD's, ROD amendments, ESD's]
6. On or about _____, 19____, EPA began a Remedial Design/Remedial Action (RD/RA) to design and implement the remedy selected in the Record of Decision.

EPA also has prepared [or is preparing] the following information about the site and potentially responsible parties:

1. A preliminary list of names and addresses of those PRPs who have received notice letters. Inclusion on, or exclusion from, the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at the Site.
2. To the extent such information is available, a list of the volume and nature of substances contributed by each PRP. This list is preliminary and subject to revisions based upon new information as, and if, it becomes available.
3. A ranking by volume of the substances at the facility, to the extent such information is available.
4. A fact sheet describing the Site.

Pursuant to section 113(k) of CERCLA and Subpart I of the National Contingency Plan, EPA will establish an administrative record that contains the documents which form the basis of EPA's decision for the selection of a response action at the Site. The administrative record files, which contain the documents related to the response action selected for the Site, [will be] [are] available to the public for inspection and comment. The administrative record file is located in both the EPA Regional Office or other central location and is also available at [name of site]. [Include an approximate date when it will be available, and the location of the files.]

The matters contained in this letter are intended solely for notification and information purposes. They are not intended to be and can not be relied upon as final EPA positions.

If you have any questions about this letter, please contact
(). You may also obtain general background information about
Superfund by calling the Superfund hot line at 1-800-424-9346.

Sincerely,

[Division Director]