DC 20460, telephone (800) 490–9194. The complete announcement can be accessed on the Internet from the EPA home page: http://www.epa.gov/ncerqa.

SUPPLEMENTARY INFORMATION: In its Requests for Applications (RFA) the U.S. Environmental Protection Agency (EPA) invites research grant applications in the following areas of special interest to its mission: (1) Exploratory Research, (2) Indicators of Global Climate Change, and (3) Interindividual Variation in Human Susceptibility to Environmentally-caused Disease. Applications must be received as follows: December 16, 1997, for the human health and environmental chemistry areas of exploratory research; February 12, 1998, for Indicators of Global Climate Change and Interindividual Variation in Human Susceptibility to Environmentally-caused Disease; March 12, 1998, for the physics and environmental engineering areas of exploratory research; and March 31, 1998, for the environmental biology area of exploratory research.

The RFAs provide relevant background information, summarize EPA's interest in the topic areas, and describe the application and review process.

Contact person for the Exploratory Research RFA is Clyde Bishop (bishop.clyde@epamail.epa.gov), telephone 202–564–6914; for Indicators of Global Change, Barbara Levinson (levinson.barbara@epamail.epa.gov), telephone 202-564–6911; and for Interindividual Variation in Human Susceptibility to Environmentally-caused Disease, David Reese (reese.david@epamail.epa.gov), telephone 202–564–6919.

Dated: August 28, 1997.

Approved for publication:

Henry L. Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 97–23838 Filed 9–8–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5889–6]

Fellowships for Graduate Environmental Study

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for applications.

SUMMARY: This notice provides information on the availability of the fiscal year 1998 Science to Achieve Results (STAR) Fellowships for Graduate Environmental Study Program announcement, in which the scientific disciplines of interest, eligibility and submission requirements, evaluation criteria, and implementation schedule are set forth. Fellowships will be competitively awarded following peer review.

DATES: Closing date for receipt of pre-applications is November 14, 1997.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research and Quality Assurance (8703R), 401 M Street SW, Washington DC 20460, telephone (800) 490–9194. The complete announcement can be accessed on the Internet from the EPA home page: http://www.epa.gov/ncerqa.

SUPPLEMENTARY INFORMATION: In its announcement for the STAR Fellowships for Graduate Environmental Study Program the Environmental Protection Agency (EPA) invites fellowship pre-applications the advance education (masters and doctoral levels) in 27 fields of study relevant to environmental science and policy. Pre-applications must be received no later than 4:00 p.m. on November 14, 1997.

The announcement provides relevant background information, identifies eligible fields of study, and describes the application and review process.

The contact person for the STAR Fellowships Program is Virginia Broadway (broadway.virginia@epamail.epa.gov), telephone 202–564–6923.

Dated: August 29, 1997.

Approved for publication:

Henry L. Longest, II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 97–23837 Filed 9–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5890–5]

Notice of Availability of Final Draft Guidance for Developing Superfund Memoranda of Agreement (MOA) Language Concerning State Voluntary Cleanup Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and request for comments.

SUMMARY: This notice announces the availability of the document ''Final Draft Guidance for Developing Superfund Memoranda of Agreement (MOA) Language Concerning State Voluntary Cleanup Programs'' and the Agency's request for stakeholder comment on both aspects of the document, i.e., the final draft guidance and the site screening or designation process. In this document, the U.S. Environmental Protection Agency is encouraging its Regions to develop partnerships with States by negotiating MOAs that delineate roles and responsibilities for the cleanup of hazardous substance sites, such as Brownfields, that do not pose the type of risk usually addressed by Federal Superfund National Priorities List (NPL) cleanups. These MOAs are designed to facilitate the expeditious cleanup of these lower risk sites under State voluntary cleanup programs. This document sets out baseline criteria that EPA will use to evaluate State voluntary cleanup programs. This evaluation will be part of the negotiation of an MOA, or work planning document. As explained more fully in the draft guidance, for those sites included within the scope of the MOA, EPA will not exercise cost recovery authority and does not generally anticipate taking removal or remedial actions under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or Superfund) at these sites except under the limited circumstances detailed in the draft guidance.

DATES: Written comments must be postmarked or submitted by hand or electronically by October 24, 1997. Due to the previous stakeholder discussions on this guidance, including the February 27, 1997 open meeting noticed in the February 13, 1997 **Federal Register**, this comment period is not expected to be extended, and thus, this is likely to be the final opportunity for public comment on this guidance.

ADDRESSES: To submit comments, the public must send an original and two copies to Docket Number SFMOA, located at the Superfund Docket. The official address is: U.S. EPA, Superfund Docket (MC5202G), 401 M Street, N.W., Washington, D.C. 20460. Hand-delivered comments should be taken to: U.S. EPA, Superfund Docket, 1235 Jefferson Davis Highway, Crystal Gateway 1, First Floor, Arlington, VA 22202. (Also, see the section under ''Supplementary Information'' regarding the paperless office effort for submitting public comments.) The Superfund Docket is open for public inspection and copying of supporting information from 9:00 a.m.–4:00 p.m., Eastern Time,

except for Federal holidays. The public must make an appointment to review docket materials by calling 703–603–9232. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: Linda Garczynski, Director, Outreach and Special Projects Staff, Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, Mail Stop 5101, 401 M Street, N.W., Washington, D.C. 20460, phone: (202) 260–4039, or Linda Boornazian, Policy and Program Evaluation Division, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, Mail Stop 2273A, 401 M Street, N.W., Washington, D.C. 20460, phone: (202) 564-5144.

AVAILABILITY OF DOCUMENT: The Final Draft Guidance for Developing Superfund Memoranda of Agreement (MOA) Language Concerning State Voluntary Cleanup Programs follows this notice. In addition, the document can be accessed electronically through the U.S. Environmental Protection Agency's homepage at http://www.epa.gov/brownfields.

BACKGROUND INFORMATION: States are developing voluntary cleanup programs to speed up the cleanup of non-National Priorities List sites, which, generally speaking, pose a lower risk than those sites listed on the National Priorities List (NPL). These voluntary cleanup programs pose an alternative to the conventional CERCLA or State Superfund-like enforcement approach to cleaning up contaminated sites. Through State voluntary cleanup programs, site owners and developers identify and clean up sites by using less extensive administrative procedures. The site owners and developers may then obtain some relief from future state liability for past contamination. This approach encourages cleanup of sites, such as Brownfields, that might otherwise not be cleaned up because of limited Federal and State resources.

In addition, financial and real estate sectors are sometimes reluctant to support the redevelopment of brownfields and lower risk sites because they are concerned about potential liability under CERCLA. Some developers have also expressed concern that the uncertainty that can arise from potentially overlapping Federal/State cleanup authorities can become a disincentive to cleanup and redevelopment of these sites. This guidance addresses this concern by clarifying EPA and State roles and responsibilities, which helps reduce such uncertainty and promotes the cleanup and redevelopment of lower risk sites such as Brownfields. As of August 1997, eleven States and EPA Regions have signed Memoranda of Agreement clarifying their respective roles at certain sites being addressed under State voluntary cleanup programs.

This draft guidance includes a draft site designation or screening process and proposes that this new process be used in conjunction with the guidance to designate sites as either Tier II (lower risk sites that are eligible for inclusion within the scope of an MOA concerning a State voluntary cleanup program) or Tier I (higher risk sites of the type that historically have been listed on the National Priorities List). Tier I sites are not eligible for inclusion within the scope of an MOA concerning a State voluntary cleanup program.

The Agency is requesting comment on both the draft guidance and the site designation or screening process. EPA would like to receive comments of both a general nature, e.g., on the usefulness of the MOA approach to clarifying roles and responsibilities; the feasibility and ease of implementation of the site designation or screening process; as well as specific suggestions as to how the guidance or site tiering process could be improved. In particular, EPA would appreciate feedback and comment in the following areas:

Draft Guidance

1. Does the final draft guidance represent an appropriate balance among assuring protective site cleanups; the appropriate level of State, Federal and community involvement at voluntary cleanup sites; and, encouraging cleanup and redevelopment of these sites, particularly in the following areas?

a. Universe of sites eligible for inclusion within scope of MOA

b. Criteria for evaluating State voluntary cleanup programs

c. Level of Federal involvement (including provision of technical or financial assistance), if any, in State voluntary cleanup programs

d. Level of Federal involvement, if any, in specific sites being addressed under State voluntary cleanup programs

e. Methods for determining the protectiveness of voluntary cleanups at lower risk sites.

f. Role of the community in voluntary cleanups

Site Designation and Screening Process

2. What type and amount of information is needed at each stage in the decision process to reach a Tier I or Tier II decision?

3. Are the screening steps in the best logical sequence?

4. If there are nearby populations or sensitive environments, how could EPA ensure that private parties would evaluate them to account for changes in land use in the near or long-term?

5. What information/tools (e.g., software) are currently available to the public that would allow them to collect the requested information?

6. What are the resource implications for stakeholders who use these tools at each step of the process, i.e., how much is the estimated cost (in dollars and time) of conducting each step of the process?

7. Are there preferred alternative mechanisms for screening sites? If so, please describe briefly.

SUPPLEMENTARY INFORMATION:

Paperless Office Effort

EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ACSII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the name of the commenter. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter. Rather, EPA is experimenting with this procedure as an attempt to expedite our internal review and response to comments. This expedited procedure is in conjunction with the Agency's ''Paperless Office'' campaign.

Dated: August 29, 1997.

Timothy Fields, Jr.,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

Steven A. Herman,

Assistant Administrator, Office of Enforcement and Compliance Assurance.

Oswer Directive _____

Guidance for Developing Superfund Memoranda of Agreement (MOA) Language Concerning State Voluntary Cleanup Programs

This document gives guidance to EPA staff on how to draft MOAs with States on State voluntary cleanup programs. It is not a regulation, and does not create legally binding obligations on any person, including States and EPA. Whether or not EPA follows

the guidance in any particular case will depend on the circumstances. EPA may change the guidance in the future.

I. Purpose

This guidance will assist the U.S. Environmental Protection Agency's (EPA) Regions and States in developing or amending Memoranda of Agreement (MOA)[1] regarding EPA/State relationships with respect to sites being addressed by State voluntary cleanup programs. Regions should use this guidance in determining whether to acknowledge the adequacy of a State voluntary cleanup program through an MOA. For those sites included within the scope of the MOA, Regions and States can agree that EPA will not exercise cost recovery authority and does not generally anticipate taking a removal or remedial action[2] at certain sites being addressed by a State's voluntary cleanup program except under limited circumstances. The decision to sign an MOA is discretionary upon the part of the Regional Administrator.

II. Introduction

State Voluntary Cleanup Programs

A State voluntary cleanup program is an alternative to the conventional CERCLA or State Superfund-like enforcement approach to cleaning up contaminated sites. States are developing voluntary cleanup programs to speed up the cleanup of non-National Priorities List sites, which, generally speaking, pose a lower risk than those sites listed on the National Priorities List (NPL).[3] These voluntary cleanup programs are designed to achieve results that are acceptable to the State in terms of costs and protection of the environment and human health.

Many States have established voluntary cleanup programs. The key ingredients of a documented State voluntary cleanup program include established authority, investigative and remedial procedures, cleanup targets appropriate to sites, State sign-off conditions and procedures, and liability provisions. These voluntary cleanup programs allow volunteers, such as site owners and developers, to identify and clean up sites, to use less extensive administrative procedures, and to obtain some relief from future state liability for past contamination. These sites might otherwise not be cleaned up because of their relatively low priority, and because these sites are too numerous for other State or Federal cleanup programs to address within a reasonable time frame.

State-established voluntary cleanup programs allow private parties to initiate and proceed with a cleanup with varying levels of State oversight and enforcement conditions. This guidance is intended to be flexible enough to accommodate variability among State voluntary cleanup programs; however, the guidance does describe a minimum set of criteria that a State voluntary cleanup program should meet before EPA signs an MOA with the State concerning its voluntary cleanup program.

In this guidance, EPA uses the term ''voluntary'' to mean ''private party-initiated.'' It does not imply a lack of State oversight and/or approval of cleanup activities. Some State voluntary cleanup programs require the ''voluntary'' party to enter into an enforceable consent agreement.

III. Implementation

A. Scope and Applicability

The principles outlined in this policy may apply to all sites, except as specified below.

1. Those sites designated as Higher Risk (or Tier I) sites,[4] either under the screening process described in the Attachment to this guidance, or under an alternative screening process or mechanism proposed by the State and approved by EPA Headquarters, are not eligible for inclusion within the scope of an MOA.

2. Those sites proposed for or listed on the National Priorities List (NPL); or, those sites where ranking packages proposing their inclusion on the National Priorities List (NPL) are submitted to EPA Headquarters, are not eligible for inclusion within the scope of the MOA.

3. Those sites for which an order or other enforcement action is issued or entered under CERCLA or sections 3008(h), 3013(a), or 7003(a) of RCRA, and is still in effect, are not eligible for inclusion within the scope of an MOA.

4. Those sites undergoing RCRA corrective action pursuant to RCRA sections 3004(u), 3004(v) or 3008(h) are not eligible for inclusion within the scope of an MOA. (However, see below for details on certain situations where exceptions may be made to this restriction for facilities or portions of facilities where correction action has not yet been initiated under an order or permit.)

The Region and the State may agree to apply the principles of the MOA to voluntary cleanups that have already begun if the State's voluntary cleanup program met the requirements of this guidance at the time those voluntary cleanups commenced. The MOA should clarify that EPA is not waiving its claims for past costs under CERCLA or other relevant authority (to the extent EPA has incurred such costs), and the MOA does not affect EPA's ability to recover these costs.

B. Site Designation

Generally, sites that are included within the scope of the MOA will be those types of sites that are often less-contaminated or that pose lower risk to public health, welfare or the environment; these types of sites are not typically addressed by EPA CERCLA cleanup actions. For purposes of this guidance, EPA will designate these sites as Lower Risk (or Tier II) sites. EPA's expectation for Lower Risk (Tier II) sites covered by an EPA/State MOA concerning State voluntary cleanup programs is that EPA cleanup actions should be necessary only under very limited circumstances, and that the contact for cleanup of Lower Risk (or Tier II) sites is the State.

EPA has developed a site designation and screening mechanism that distinguishes Higher Risk (or Tier I) and Lower Risk (or Tier II) sites (See Attachment). The MOA should explain that States or volunteering parties will use this screening mechanism, which is attached, to designate a site as Higher Risk (Tier I) or Lower Risk (Tier II). A State may propose to EPA Headquarters an alternative screening process or mechanism for designating sites as Higher Risk (or Tier I) or Lower Risk (or Tier II). The State should demonstrate that the proposed alternative screening mechanism achieves results consistent with the results of the process described in the Attachment. If EPA Headquarters approves the alternative site tiering process, the MOA should attach the description of the alternative screening process. The MOA should also

[1] These MOAs are developed under the National Contingency Plan definition of a Superfund Memorandum of Agreement (SMOA), which is a nonbinding, written document executed by an EPA Regional Administrator and the head of a State agency to establish the nature and extent of EPA and State interaction during the removal, pre-remedial, remedial, and/or enforcement response process. The SMOA generally defines roles and responsibilities; it is not a site-specific document although attachments may address specific sites.

[2] EPA may obtain access, conduct site assessment or information gathering as necessary to determine whether an imminent and substantial endangerment exists.

[3] The NPL means the list, compiled by EPA pursuant to CERCLA section 105, of uncontrolled hazardous substance releases in the United States that are priorities for long-term remedial evaluation and response.

[4] Higher Risk (or Tier I) sites are sites that, while not currently proposed for listing on the NPL, have greater potential for being addressed under CERCLA authorities.

recognize that alternative method as a way to designate sites as Higher Risk (or Tier I) or Lower Risk (or Tier II).

The MOA should state that documentation of the decision designating a site as Higher Risk (or Tier I) or Lower Risk (or Tier II) should be kept in the file maintained by the State voluntary cleanup program, and be made available to EPA upon request. The MOA should also specify that the State is responsible for the site designations. If EPA subsequently determines that a site was improperly designated as Lower Risk (Tier II), the provisions of section III. D. ''EPA CERCLA Action'' do not apply to that site. The sites addressed through a State voluntary cleanup program that do not have documentation establishing a site as Lower Risk (Tier II), should not be eligible for inclusion within the scope of an MOA concerning EPA CERCLA cleanup actions.

C. Applicability to Facilities subject to RCRA Requirements

This guidance is also applicable to CERCLA actions at sites subject to RCRA requirements, subject to the restrictions in section III. A., above, and as discussed below. Generally, this guidance could apply to two types of sites subject to RCRA: (1) sites at which there are only generators of hazardous waste; and (2) hazardous waste treatment, storage or disposal facilities (TSDFs).

Generators

Sites at which there are only generators of hazardous waste are typically cleaned up by State cleanup programs (or, in some cases, the Federal CERCLA program) and are within the scope of the MOA unless otherwise excluded by the restrictions in Section III.A., above.

TSDFs

Hazardous waste treatment, storage or disposal facilities (TSDFs) are typically cleaned up by EPA or authorized States under the RCRA corrective action provisions (See, RCRA sections 3004(u) and (v) and 3008(h)). TSDFs or portions of TSDFs where corrective action has not yet been initiated under an order or permit may be included within the scope of the MOA on a case-by-case basis. At the Federal level, the CERCLA program has already generally deferred cleanups of RCRA TSDFs, including those RCRA TSDFs currently being addressed in authorized States under order or permit, to the RCRA program (see, 60 FR 14641; March 20, 1995).

Effect of RCRA Authorization

Under RCRA section 3006, EPA may authorize States to carry out the RCRA program (including corrective action requirements), subject to EPA oversight. In a State authorized to implement RCRA corrective action, EPA expects the State to be the primary implementor of RCRA requirements at all facilities subject to corrective action, including facilities that have, have had, or should have had, RCRA interim status. Authorized States may, at their discretion, allow cleanup of TSDFs or portions of TSDFs under a State voluntary program. In an authorized State, TSDFs or portions of TSDFs where corrective action has not yet been initiated under an order or permit may be addressed by the policy discussed in section III. D. of this guidance on a case-by-case basis.

Effect of Cleanup Under a State Voluntary Program on RCRA Permitting Requirements

In authorized and non-authorized States, a voluntary cleanup at a TSDF does not avoid the requirements that TSDFs obtain RCRA permits and that RCRA permits address corrective action. In cases where voluntary cleanups occur prior to permit issuance, EPA or the authorized State, at the time of permit issuance, must determine whether or not a voluntary cleanup satisfied all corrective action requirements or whether additional corrective action activities are needed (e.g., if the voluntary cleanup addressed only a portion of the facility subject to corrective action). Voluntary cleanups can substantially accelerate the corrective action process by, for example, allowing it to proceed before permit issuance or, where a permit has been issued, by allowing more immediate remediation of certain areas which are not covered by the permit, unless otherwise excluded by the restrictions in section III.A., above.

D. EPA CERCLA Action

The Regions should state in the Memorandum of Agreement the following:

For sites being investigated or cleaned up consistent with the practices and procedures of a State voluntary cleanup program that meets the criteria discussed in this guidance, EPA will not exercise its cost recovery authority unless:

a. The Administrator determined that the release or threat of release may present an imminent and substantial endangerment to public health or welfare or the environment; or,

b. The State requests the Administrator to take action; or,

c. Conditions at the site, that were unknown to the State at the time the response action plan was approved, are discovered, and such conditions indicate, as determined by the Administrator or the State, that the response action is not protective of human health or the environment; or,

d. The cleanup of the site is no longer protective of human health or the environment, as determined by the Administrator or the State, because of a change or a proposed change in the use of the site.

Except as provided in (a) through (d) above, EPA does not generally anticipate taking removal or remedial action at sites involved in State Voluntary Cleanup Programs addressed by a signed EPA/State Superfund Memorandum of Agreement.

E. EPA/State Coordination

The outcome of these MOAs is EPA acknowledgment of the adequacy of a State voluntary cleanup program, and EPA's intention to rely on States to be responsible for addressing sites included within the scope of MOAs concerning these State voluntary cleanup programs. EPA and States should be developing MOAs in the context of the new framework for the State/EPA partnership, which EPA and State Environmental Managers endorsed in July 1994. A key principle governing the EPA/State relationship is that each State/EPA relationship must be based on an understanding of—and consent for—a clear assignment of roles and responsibilities. This principle envisions utilization of the comparative advantages and inherent strengths that each party brings to the relationship. Adherence to this principle should help avoid duplication of effort, and maximize the number of sites cleaned up through the efficient use of EPA and State resources.

Prior to signing an MOA concerning a State voluntary cleanup program, the Region should review all relevant documents concerning the voluntary cleanup program to determine if the State voluntary cleanup program meets the six criteria discussed below. A Region may wish to conduct a State visit to review the State voluntary cleanup program prior to signing an MOA.

The MOAs concerning State voluntary cleanup programs should include a provision that EPA will review the MOA upon significant changes to the State voluntary cleanup program, and that the State will provide EPA with prompt notice of changes to their laws, regulations, resource levels, guidance,

policies and practices governing such programs. The MOA should also state that EPA will periodically conduct reviews of State Voluntary Cleanup Programs where EPA has signed MOAs with States for the purpose of assessing how effectively EPA and the States are meeting the goals and expectations described in the MOA.

These reviews of signed MOAs should be conducted on a staggered basis so that all MOAs signed in a Region are not up for review at the same time. At a minimum, the initial review of an MOA should be conducted three years after the date EPA signs an MOA; at a minimum, subsequent reviews of MOAs should be conducted every five years thereafter. While this guidance does not invalidate MOAs signed by EPA and States before the effective date of this guidance, an EPA Region should begin its staggered reviews by starting with those MOAs. Reviews of existing voluntary cleanup MOAs should be conducted to assess the consistency of State voluntary cleanup programs with this guidance.

When an interested party expresses concern to EPA about a specific site covered under the MOA, EPA may contact the State, which would be responsible for providing documentation to EPA that designates the site as a Lower Risk (Tier II) site. EPA and the State should discuss the party's concern as well as the status of the site under the State voluntary cleanup program. If the public expresses significant concerns to EPA about any aspect of the State voluntary cleanup program, EPA and the State will discuss how the MOA is being implemented, and whether the State's voluntary cleanup program continues to meet the requirements set forth in this guidance.

Prior to EPA deciding to sign an MOA concerning State voluntary cleanup programs, the Region will discuss with the State its views and record on NPL listing, and will consider that information as a factor in deciding whether to sign an MOA. EPA will include the State's views and record on NPL listing as part of its periodic reviews of how effectively the MOA is being implemented.

F. Criteria for a State Voluntary Cleanup Program

Before a Region and State sign an MOA that acknowledges the adequacy of a State voluntary cleanup program, the Region should ensure that the State voluntary cleanup program meets the criteria described below. The MOA should make clear to any private party that recovery of response costs under CERCLA will require that the cleanup action meet the requirements outlined in the National Contingency Plan (See 40 CFR 300.700 et. seq.).

1. Community Involvement

Public involvement activities ensure that the public is both informed of and, if interested, involved in planning for response actions. Under voluntary cleanup programs, the State and/or the private sector may provide the opportunity for community involvement activities. General methods of providing the opportunity for meaningful community involvement may include practices, policies, guidance, or regulations on conducting community involvement on a site-by-site basis.

The State voluntary cleanup program should provide opportunities for meaningful community involvement that are responsive to the risk posed by the site contamination and the level of public interest. While States should be afforded discretion in how their program provides such opportunities, State programs should, at a minimum, provide for adequate notification of the proposed voluntary cleanup plan to affected parties. The community involvement criterion can be substantively met, on a site-by-site basis, by the State voluntary cleanup program through any of the methods suggested below. At sites where a significant segment of the community does not speak English as a first language, there should be provisions for providing site information in languages other than English.

a. Notifications about voluntary response actions to local government officials and community groups;

b. Publication of legal notices about voluntary response actions in city or community newspapers (or other media, such as radio, church organizations and community newsletters) at key milestones in the response action process;

c. Other forms of notification about voluntary response actions;

Where the public has been involved in site activities and demonstrates an interest in participating in response action planning and implementation, additional meaningful public involvement opportunities may include:

d. Preparation of a public involvement plan that establishes opportunities for public involvement. Such a plan may provide background about the site, response actions already conducted, and the history of public involvement at the site; identify the specific opportunities for public participation in cleanup decisions that will take place; and, describe activities that will be undertaken to address and incorporate public concerns in the cleanup.

e. Involvement of the public in understanding the risk reduction aspects of the voluntary cleanup.

f. The publication and distribution of site fact sheets.

g. Conduct of community interviews, including interviews through notification and communication with community organization officials, environmental justice groups, civic groups, environmental interest organizations, and church organizations.

h. Numerous other methods to solicit public participation and comment.

i. Public meetings or hearings, either formal or informal.

j. Local land use planning activities on current and/or future uses of sites.

2. Protectiveness

A State voluntary cleanup program should ensure that voluntary response actions are protective of human health, welfare, and the environment. Reasonably anticipated future land uses should be considered in establishing protective contaminant concentrations. All voluntary response actions must comply with any Federal, State or local laws that apply to that site. Ways to determine protectiveness may include, but are not limited to:

a. Background contaminant concentrations;

b. Site specific risk assessments, based on U.S. EPA's Risk Assessment Guidance for Superfund, part A and B, and associated policy updates, e.g., soil screening guidance, or on State regulations and guidance;

c. Contaminant-specific models such as the biokinetic uptake model for lead;

d. Applicable and/or Relevant and Appropriate Requirements, such as Maximum Contaminant Levels (MCLs) for groundwater;

e. Consistency with a human health risk range, as defined in 40 CFR 300.430(e)(2)(i)(A)(2) for known or suspected carcinogens, or a hazard index for threshold contaminants, as defined in 40 CFR 300.430(e)(2)(i)(A)(1); or,

f. Risk-based corrective action assessment.

2A. Response selection. Response actions should be conducted cost-effectively, consistent with projected future uses at the site. All response actions must comply with any Federal, State and local laws that apply to the site. Long-term reliability should also be a goal when selecting response actions. Response actions may include one or more of the following:

a. Treatment (active or passive) that eliminates or reduces the toxicity,

mobility, or volume of hazardous substances, pollutants, or contaminants;

b. Containment of contaminated media to acceptable exposure levels;

c. Transport to off-site treatment;

d. Restricted access to and/or use of the site through institutional controls that are enforceable over time.

3. Resources/Technical Assistance

The State should demonstrate that its voluntary cleanup program has adequate resources, including financial, legal and technical, to ensure that voluntary response actions are conducted in an appropriate and timely manner, and that meaningful outreach efforts are made to the affected community. The State agency should make available both technical assistance, and streamlined procedures where appropriate, to ensure expeditious voluntary response actions.

4. Certification of Response Action Completion

A State Voluntary cleanup program should provide adequate mechanisms for the written approval of response action plans and a certification or similar documentation indicating that the response actions are complete. In situations where a State uses alternative mechanisms to approve cleanup decisions, all approval determinations will be considered the same as the State making the determinations, and as such, the State will be viewed as responsible for such decisions.

5. Oversight Authorities

A State voluntary cleanup program should provide adequate oversight to ensure that voluntary response actions, including site assessments/characterizations, are conducted in such a manner to assure protection of human health, welfare and the environment, as described above. For sites with nonpermanent remedies, especially nonpermanent remedies premised on the restricted use of the land, the State voluntary cleanup program should meet this criterion by including a requirement that the State program receives progress reports on site conditions, or by reserving the State program's right to conduct site inspections. If the State voluntary cleanup program does not require the State to monitor a site after the final cleanup report is approved, then the State voluntary cleanup program could meet this criterion by reserving the State's authority to remove the cleanup certification under certain circumstances, such as a change in the site's use, a failure of institutional controls, or the discovery of additional contamination.

6. Enforcement Authorities

The State voluntary cleanup program should show the capability, through enforcement or other state authorities, of ensuring completion of response actions if the volunteering party(ies) conducting the response action fail(s) or refuse(s) to complete the necessary response activities, including operation and maintenance or long-term monitoring activities.

G. Reporting Requirements

The Region and the State should negotiate the need for reporting site names and the status of the sites by name to best suit the needs of that Region and State. The MOA should state, however, that the State agrees to maintain a list of site names (and locations) covered by the MOA and to make such list available to EPA and the public upon request. The State Agency should report, at a minimum, the following information to the Region on an annual basis.

a. Number of sites in each stage of the State voluntary cleanup program;

b. Number of sites entering the voluntary cleanup program the previous year; and,

c. Number of sites having received State agency approvals of full or partial completions in the previous year.

EPA should state in the MOA that it will conduct selective audits of sites within the scope of the MOA for the purpose of assessing how the site designation methodology attached to this guidance, or an alternative site designation mechanism approved by EPA Headquarters, is being implemented by either the State or the volunteering party. Regions and States should discuss the status of CERCLIS [5] sites covered by the MOA at least semi-annually to ensure EPA/State coordination on sites covered by the MOA. This is especially important since EPA decides which sites are removed from CERCLIS.

IV. Financial Assistance to States To Support Voluntary Cleanup Program Activities

EPA recognizes that most State voluntary cleanup programs are intended to be self-sustaining. Most of the voluntary programs with active State oversight require the private party to pay an hourly oversight charge to the State environmental agency in addition to all cleanup costs. Some States require application fees that can be applied against oversight costs.

However, EPA does recognize that States may need financial assistance to help establish new State voluntary cleanup programs and to help enhance existing State voluntary cleanup programs. To accomplish this, the Region may enter into cooperative agreements with the State to provide funding to the State for certain purposes.

The Region may provide Fund money to States for development and enhancement of voluntary cleanup programs through core program cooperative agreements. OSWER has developed guidance for use of core program cooperative agreement funding of State voluntary cleanup program infrastructure. (See May 1, 1997 memorandum from Timothy Fields, Jr., Acting Assistant Administrator, OSWER, entitled ''Approach for Regional Funding of State Voluntary Cleanup Programs.'') If the Region intends to provide funds to the State for voluntary programs, the Region should identify its resource needs for State voluntary cleanup programs in its annual budget development process.

V. Technical Assistance to States to Support Voluntary Cleanup Program Activities

EPA will also provide technical assistance to States to support voluntary cleanups. EPA will share with States information contained in publicly available national databases. EPA will share any lessons learned or national expertise it has gained through the CERCLA program with States who face similar assessment and cleanup problems at voluntary cleanup sites.

Tier I/II Designation and Screening Process Summary

Introduction/Purpose

This document summarizes EPA's Tier I and Tier II definitions and screening process for sites being addressed through voluntary cleanup programs. Tier I sites are among those where EPA has historically taken cleanup actions under the Federal Superfund program. Tier II sites are generally representative of those where EPA has not historically taken Federal Superfund cleanup actions. EPA intends that any party can use the process outlined below to make Tier I/II designations. Understanding the potential for Superfund involvement enables stakeholders to make more informed property cleanup, transfer, and redevelopment decisions.

[5] CERCLIS is the abbreviation of the CERCLA Information System, EPA's comprehensive data base and management system.

Defining Tier I and Tier II Sites

Tier I sites are those that have greater potential to require long-term or emergency cleanup work under the Federal Superfund program. These are sites which have a release of a hazardous substance, pollutant, or contaminant that has caused, or is likely to cause, human exposure or contamination of a sensitive environment. These sites typically involve contamination of drinking water, surface water, air, or soils which has either caused, or is likely to cause, exposure to nearby populations, or has contaminated, or is likely to contaminate, sensitive environments (such as wetlands, national parks, and habitats of endangered species, etc). Tier II sites are those that have less potential to require long-term or emergency cleanup work under the Federal Superfund program. This includes sites which: (1) Do not qualify for response under Superfund (e.g., CERCLA petroleum exclusion sites); (2) score below 28.5 based on EPA's Hazard Ranking System (HRS), 55 FR 51532; (3) are being adequately addressed under other Federal statutes, subject to the restrictions specified in Section III. A. ''Scope and Applicability'' of the MOA/VCP guidance document; or (4) otherwise do not meet the criteria given above for Tier I sites.

Screening Process

To conserve resources, EPA has employed a phased, progressively more detailed screening process to identify Federal Superfund sites. Key factors in making decisions about sites include whether a release of hazardous substances has occurred or is likely to occur and determining whether people or sensitive environments have been or are likely to be impacted by the release. Only about 15 percent of the sites screened by Superfund to date have required removal or remedial actions—most are screened out. The Superfund screening process differs from the private sector site evaluation approach which typically is interested in what environmental liabilities and remediation costs are associated with a site or property. Consequently, the private sector assessments focus on collecting information on the property, not offsite impacts. The Tier I/II screening process outlined below uses common elements of both approaches and incorporates, when necessary, the data needed for EPA to ensure human health and environmental issues are addressed.

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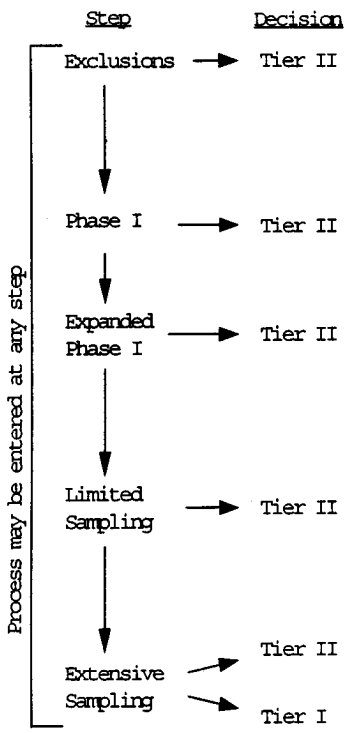

The five major steps in making a Tier I/II determination include: 1) Exclusions; 2) Phase I; 3) Expanded Phase I; 4) Limited Sampling; and 5) Extensive Sampling. Each step in the process involves gathering sufficient information about a site and/or it's environs to determine whether the site should be classified as Tier II or continue on to the next step for additional information. Sites continuing in the process may ultimately reach the final step, Extensive Sampling, which results in either a Tier I or Tier II determination; however, a site should be classified as Tier I at any step in this process if information indicates a release of a hazardous substance, pollutant, or contaminant has caused, or is likely to cause, human exposure or contamination of a sensitive environment.

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EPA's HRS model can also be applied at any point in the assessment process to assist parties in determining the likelihood of Federal Superfund interest. Sites with an HRS score below 28.5 are considered Tier II by the Agency and account for most of the sites assessed under Superfund.

The steps involved in making a Tier I/II determination are further described in the Screening Process section of the Tier I/II Designation and Screening Process document.

Conclusion

EPA believes the screening process described above can by used by any party to determine whether a site, in most cases, would be Tier I or Tier II. It enables parties to make many Tier I or Tier II designations based on information collected as part of the private due diligence process. Additional detail can be found in the attachment entitled ''Tier I/II Designation and Screening Process.''

Tier I/II Designation and Screening Process

Purpose

The purpose of this guidance is to provide definitions of Tier I and Tier II sites within the context of MOAs covering State VCPs. The guidance also describes a process that can be used by any party, e.g., site owners, State Agencies, etc., to decide whether a site should be classified as Tier I or Tier II for the purpose of determining status under the MOA. The overall goal of this guidance is to assist users in reaching consistent decisions regarding Tier I/II designations.

Scope

EPA intends that this approach be used by states and/or private parties, including, for example, site owners, to assist them in making decisions regarding their status under a State VCP/MOA. EPA believes that in most instances private parties can use the following definitions and screening process to make accurate determinations on whether sites are Tier I or Tier II. Although the volunteering party may conduct the assessment on which the tiering decision is based, the State is ultimately responsible for tiering decisions. If the EPA subsequently determines that a site was improperly classified as ''Tier II'', the provisions of section III. D. ''EPA CERCLA Actions'' of the MOA/VCP guidance document will not apply.

The Agency anticipates that some of the sites addressed through voluntary cleanup programs may be included in EPA's Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) inventory. EPA removes sites from CERCLIS after assessment and any necessary Superfund response and enforcement actions are completed. Approximately 75 percent of the sites addressed under the Federal Superfund program to date have been removed from the CERCLIS inventory. With respect to voluntary cleanup programs, EPA will continue to decide which sites are removed from CERCLIS based on the same criteria that are applied to sites not covered under these programs.

Background

The Federal Superfund program evaluates sites brought to the Agency's attention to identify those sites posing the most serious threats to human health and the environment. Generally, EPA employs a multi-phase evaluation process to identify which sites are among the highest priority for response, including whether they need removal actions, and to determine what response actions are appropriate. Results of the evaluations are used to determine whether involvement by the Federal Superfund program, e.g., remedial actions at National Priorities List (NPL) sites, performing time critical removal actions by the Federal Superfund program, etc., is warranted.

These evaluations, including identifying hazardous substances, exposure pathways, and receptors/targets, seek to identify sites that have caused, or are likely to cause, human exposure or contamination of sensitive environments. The definition of Tier I sites is directed towards delineating these sites. Sites that do not meet these criteria, which the Agency expects to be the majority of sites brought to the Agency's attention, are defined as Tier II sites. Specifics of these definitions are addressed below.

Tier I Definition

The Federal Superfund Program will generally classify a site as Tier I if a release from that site has caused, or is likely to cause, human exposure to the release or contamination of a sensitive environment, and the release can be addressed under CERCLA authorities, and cleanup of the release has not been generally deferred to another Federal cleanup program. This includes, but is not limited to, sites where:

- Drinking water supplies have been, or are likely to become, contaminated with a hazardous substance (as defined in HRS); or
- Soils on or in close proximity to school, day care center, or residential properties have been contaminated by a hazardous substance three times above background levels; or
- Toxic substances that bioaccumulate have been discharged into surface waters; or
- Air releases of hazardous substances have been identified in a populated area; or
- Sensitive environments have been contaminated; or
- Releases would require immediate action from EPA (e.g., fire, explosions).

Note: Italicized terms are defined in the Tier I/II Screening Mechanism Definitions section at the end of this document.

Tier II Definition

Tier II sites are those that would be unlikely to warrant Federal remedial actions, i.e., those that do not meet the definition for Tier I sites. Tier II sites would also include sites that score below 28.5, based on the Hazard Ranking System (HRS), 55 FR 51532, and do not meet any of the characteristics of Tier I sites identified above. The majority of sites brought to the Agency's attention over the course of the Superfund program have scored below 28.5 and are considered Tier II.

Screening Process

The screening process below represents an approach to determine whether a site is Tier I or Tier II. The process consists of multiple steps in which each successive step involves more detailed information about a site and its environs. Information needed at each step is used to determine whether a site is Tier I, Tier II, or if further evaluation is necessary to make a Tier I/II decision. EPA's HRS model can be applied at any point in the process to assess a site. Those sites which score below 28.5 at any step in the process and do not meet any of the characteristics of Tier I sites identified above are defined as Tier II. The HRS model is backed by a substantial body of guidance available to assist users in making decisions consistent with those of EPA. On the other hand, if the reviewer identifies conditions consistent with any of the elements that make up a Tier I site, no further investigation would be needed to classify the site as Tier I. Given that each step in the process builds upon information collected in previous stages, the process may be entered at any point based on the amount of knowledge and data available regarding site conditions and its environs.

The iterative nature of assessing sites by collecting more detailed information and reaching conclusions in successive evaluation stages is similar to both the public sector approach (e.g., preliminary assessment followed by a site inspection if warranted) and the private sector approach (e.g., phase I assessment based on ASTM Standard Practice E 1527, followed by a phase II if warranted and requested).

Tier I/II status reflects site conditions at the time the assessment data are collected and a decision is made. As such, a Tier I/II decision could become invalid, if site conditions change, new information is discovered, or site

characteristics change (e.g., a new residential development is built on a site).

The five major steps in making a Tier I/II determination include: (1) Exclusions; (2) Phase I; (3) Expanded Phase I; (4) Limited Sampling; and (5) Extensive Sampling. Each of these steps is described in detail below.

Exclusions. The first step in determining whether a site is Tier I or Tier II involves determining whether the site is eligible for cleanup under CERCLA authorities or if the site is being adequately addressed under another federal statute such as the Resource, Conservation and Recovery Act (RCRA). Sites that are ineligible for CERCLA response or are being addressed under another federal statute instead of CERCLA should receive a Tier II designation.

A. Statutory restrictions. Some substances are excluded under CERCLA, and sites that contain only those substances are ineligible for CERCLA response actions. Similarly, Section 104(a)3 of CERCLA lists other limitations on CERCLA response. In general, a CERCLA response may be taken at a site if there is a release or threat of a release of a hazardous substance, pollutant or contaminant, or if the site poses an imminent or substantial danger to public health, welfare, or the environment).

Section 101(14) of CERCLA defines hazardous substances by referencing substances specifically listed under other Federal laws. A ''hazardous substance'' is any element, compound, mixture, solution or substance specifically designated as a ''hazardous substance'' or is regulated under the Resource Conservation and Recovery Act, the Clean Air Act, Clean Water Act, or Toxic Substances Control Act. Section 101(33) of CERCLA broadly defines the term ''pollutant or contaminant'' which could include any substance known or reasonably anticipated to be harmful to human health or ecological health. Because no substances are actually listed as pollutants or contaminants in CERCLA, the Agency determines on a case-by-case basis which substances fall within the definition.

There are specific statutory exclusions that could cause a site to be ineligible for CERCLA response. For example, hazardous substances, as defined under CERCLA, specifically *exclude* petroleum and natural gas, and therefore CERCLA authority may not be used to respond to releases of these substances unless they are specifically listed or designated under CERCLA. The exclusion applies to petroleum, including crude oil or any fraction thereof (if the fraction is not specifically listed nor designated a hazardous substance by other listed federal acts), natural gas, natural gas liquids, liquefied natural gas, and synthetic gas usable for fuel. Sites are excluded if they contain only excluded petroleum products. EPA expects that most releases from petroleum underground storage tanks (USTs) at gasoline filling stations, for example, would qualify for this exemption.

On the other hand, releases of petroleum products that are contaminated with hazardous substances (i.e., used oil/waste oil contaminated with metals or PCBs) may fall within CERCLA response authorities, if the hazardous substances cannot be separated from the petroleum, or if plumes of exempted substances are commingled with plumes of non-exempted substances.

In addition, section 101(22) of CERCLA excludes a limited category of radioactive materials from the statutory definition of ''release,'' making a site ineligible for CERCLA response. The excluded categories of radioactive materials are:

1. Releases of source, by-product, or special nuclear material (not including source material) subject to section 170 of the Atomic Energy Act; [6] and

2. Any release of source, by-product, or special nuclear material from any processing site specifically designated under the Uranium Mill Tailings Radiation Control Act of 1978.

Parties should consult with State and/or Federal contacts and consult appropriate case law to determine whether the site is excluded from CERCLA consideration due to statutory restrictions.

B. Other federal statutes. In addition to statutory restrictions, sites being adequately addressed under other federal statutes, such as RCRA, may also qualify for a Tier II designation, but refer to Section III. A. ''Scope and Applicability'' of the MOA/VCP guidance document to determine whether a specific site is eligible for inclusion under the MOA/VCP. RCRA is EPA's other central authority for cleaning up releases of hazardous substances, and has roughly parallel procedures to CERCLA in responding to releases of hazardous substances. The Agency has adopted a policy to use RCRA Subtitle C (hazardous waste) authority to respond to sites that can be addressed under RCRA Subtitle C corrective action authority (see 54 FR 41000, October 4, 1989).

Types of sites covered under the policy include hazardous waste treatment, storage and disposal facilities (TSDFs) that qualify under EPA's National Priorities List/RCRA deferral policy (see 51 FR 21057, 53 FR 23980, and 54 FR 41004). Parties should consult with State and Federal contacts to determine whether a site is being addressed under another federal statute, and therefore, whether a Tier II designation is appropriate. Again, parties must still refer to Section III. A. ''Scope and Applicability'' of the MOA/VCP guidance document to determine whether a specific site is eligible for inclusion under the MOA/VCP.

Parties should consult with State and/or Federal contacts and consult appropriate case law to answer the following questions:

Question 1A: Is the site eligible for response under CERCLA authorities?

If NO, the site should be classified as Tier II and no further work under this process is necessary;

If YES, refer to Question 1B:

Question 1B: Is the EPA or the State addressing the site under another federal statute instead of CERCLA?

If NO, proceed to the Phase I step (or other appropriate step depending on site information available);

If YES, the site should be classified as Tier II and no further work under this process is necessary.

Phase I

The Phase I step within this process is quite similar to the methods prescribed by ASTM Standard Practice E 1527, although it is limited to hazardous substances as defined under CERCLA. The primary purpose of the Phase I step is to gather readily available information about a site to identify the presence or likely presence of an existing or past release of a hazardous substance into the ground (i.e., soil), ground water, surface water, or air. This step determines whether there is evidence or an indication that hazardous substances, pollutants, or contaminants were ever handled or disposed at the site either currently or in the past.

The Phase I step in this process consists of a review of records and related environmental reports pertaining to the site and a site visit to observe site conditions. Types of information collected during this step include a

[6] Under this act, ''source'' means uranium or thorium, or any combination of the two, in any physical or chemical form, ''by-product'' means any radioactive material that was made radioactive by exposure to radiation from the process of using or producing special nuclear material, and ''special nuclear material'' is plutonium, uranium-233, enriched uranium-233 or—235, or any material that the NRC determines to be special nuclear material not including source material.

general site description, current and past site use (e.g., nature and type of industrial use), topography, and waste characteristics, including an estimation of the type and quantity of hazardous substances at the site. Visual observations should consider stressed vegetation, discolored soils, oily ponds, and similar signs of contamination. No sampling is involved in this step. Geologic, hydrogeologic, and hydrologic data will prove useful along with topographic maps to determine whether migration of hazardous substances is likely. Data collected should help identify the potential distribution and mobility of hazardous substances in soil, ground water, surface water, and air.

Observations should also identify any site conditions warranting immediate or emergency actions. Examples of these include the threat of fire and/or explosion from unstable or reactive hazardous materials, the threat of direct contact with a hazardous substance, the threat of a continuing release of a hazardous substance, and the threat of contaminating surface waters or drinking water supplies.

The collection and review of readily available information at this step should be sufficient to answer the following question:

Question 2: Is it reasonable to expect that hazardous substances are present at the site?

If NO, the site should be classified as Tier II and no further work under this process is necessary;

If YES, proceed to the Expanded Phase I step (or other appropriate step depending on site information available).

Note: The site should be classified as Tier I if information indicates a release of a hazardous substance, pollutant, or contaminant has caused, or is likely to cause, human exposure or contamination of a sensitive environment, or if the site otherwise exhibits conditions such as those described under the Tier I definition above.

Expanded Phase I

If the Phase I indicates a reasonable expectation that hazardous substances are present at the site, the next step in this process involves gathering environs data to determine what could be impacted by a release from the site. Therefore, the purpose of the Expanded Phase I step is to identify and verify the existence and locations of nearby people (or pathways of human exposure, e.g., water intakes or wells) and sensitive environments that might be threatened by a release from the site.

Examples of data collected at this stage include nearby residential, worker, and student population estimates, nearby municipal, private, and other drinking water supplies, drinking water wells and intakes, fisheries (including sport and subsistence fishing), and sensitive environments such as wetlands, national parks, wildlife refuges, and habitats of threatened or endangered species. This information is collected to determine whether a release of hazardous substances at the site could lead to human exposure or contamination of sensitive environments.

Data collected under the Expanded Phase I step should be sufficient to answer the following question:

Question 3: Could nearby populations or sensitive environments be at risk from the site?

If NO, the site should be classified as Tier II and no further work under this process is necessary;

If YES, proceed to the Limited Sampling step (or other appropriate step depending on site information available).

Note: The site should be classified as Tier I if information indicates a release of a hazardous substance, pollutant, or contaminant has caused, or is likely to cause, human exposure or contamination of a sensitive environment, or if the site otherwise exhibits conditions such as those described under the Tier I definition above.

Limited Sampling

If the Phase I investigation indicates a reasonable expectation that hazardous substances have been present at the site and the Expanded Phase I indicates that human populations or sensitive environments may be threatened by a release from the site, sampling should be conducted to confirm the presence of hazardous substances on the site. The purpose of the Limited Sampling step is to collect and analyze waste and environmental samples, using field screening and analytical techniques where appropriate, to determine the hazardous substances present at a site and whether they are being released to the environment.

The Limited Sampling step is not intended to be an exhaustive assessment of environmental conditions at a site. Rather investigators should obtain enough information to confirm whether hazardous substances are present. As in the Phase I step, investigations should identify site conditions posing immediate health or environmental threats which require emergency response.

Site sampling typically requires developing a work plan, along with sampling and health and safety plans. Sampling and analysis should comply with a screening level quality of data following adequate quality assurance and quality control (QA/QC) procedures (40 CFR 31.45). The sampling plan should employ sound, scientific and professional judgment in identifying sampling locations.

The sampling data must be sufficient to answer the following question:

Question 4: Does site specific sampling confirm the presence of hazardous substances at the site?

If NO, the site should be classified as Tier II and no further work under this process is necessary;

If YES, proceed to the Extended Sampling step (or other appropriate step depending on site information available).

Note: The site should be classified as Tier I if information indicates a release of a hazardous substance, pollutant, or contaminant has caused, or is likely to cause, human exposure or contamination of a sensitive environment, or if the site otherwise exhibits conditions such as those described under the Tier I definition above.

Extensive Sampling

If the Limited Sampling step confirms the presence of hazardous substances at the site, more extensive sampling may be required to determine whether the site is Tier I or Tier II. The purpose of the Extensive Sampling step is to further evaluate the degree to which a site presents a threat to human health or welfare or the environment by collecting and analyzing waste and environmental media samples. This step is implemented to document releases and exposure/contamination on-site and off-site. Off-site sampling is needed to provide background samples, and where appropriate, identify human exposure or environmental contamination.

Background samples are needed to determine whether contamination at the site is at least three times higher than background levels. Sampling conducted under this step should comply with a definitive data level of QA/QC (40 CFR 31.45). The detection limits used in the analysis of both the background and site-related contamination samples should be quantitatively consistent with sample quantitation limits as specified under the Superfund Contract Laboratory Program. Quantification of on-site and off-site threats should be sufficient to answer the following:

Question 5: Do on-site and off-site sampling data show exposure, or likely exposure, of nearby populations, and/or contamination, or likely contamination of sensitive environments at a minimum of three times above background levels or above EPA standard sample quantification limits?

If NO, the site should be classified as Tier II and no further work under this process is necessary;

If YES, the site should be classified as Tier I.

Note: The site should also be classified as Tier I if the site otherwise exhibits conditions such as those described under the Tier I definition above.

Request for Comments

The Agency is requesting comment on the criteria and screening process. EPA would like to receive comments on the screening mechanism, both how it works in general (for example, feasibility and ease of implementation), and specific suggestions for how the process could be improved. In particular, EPA would appreciate feedback and comment on the following questions:

1. What type and amount of information is needed each stage in the decision process to reach a Tier I or Tier II decision?

1a. Would collecting the suggested information allow a party to move forward through the decision-making process efficiently and expeditiously?

1b. What can be done with the process to guard against inaccurate assessments?

1c. How well will this process work within established State programs?

2. Are the screening steps in the best logical sequence?

2a. At what point it is useful to have information on exposure targets (i.e., nearby populations and sensitive environments).

2b. Would it be more useful to have information about exposed/potentially exposed targets before or after limited sampling is performed?

2c. When would information on target access to contamination be collected?

3. If there are nearby populations or sensitive environments, how could EPA ensure that private parties would evaluate them to account for changes in land use in the near or long-term?

4. What tools are currently available to the public that would allow them to collect the requested information?

4a. How would these tools work to support a party's decision from a cost effectiveness and timeliness standpoint.

Tier I/II Screening Mechanism Definitions

The following definitions support terms identified in the Tier I, Tier II, and Process sections above:

Background: the level of a hazardous substance that provides a defensible reference point that can be used to evaluate whether or not a release from the site has occurred. The background level should reflect the concentration of the hazardous substance in the medium of concern for the environmental setting on or near a site. Background level does not necessarily represent pre-release conditions, nor conditions in the absence of influence from the source(s) at the site. A background level may or may not be less than the detection limit (DL), but if it is greater than the DL, it should account for variability in local concentrations. A background level need not be established by chemical analysis. Hazard Ranking System Guidance Manual, Interim Final, pp. 55 and 57.

Bioaccumulation: the tendency of a hazardous substance to be taken up and accumulated in the tissue of aquatic organisms, either from water directly or through consumption of food containing the hazardous substance. Hazard Ranking System Guidance Manual, Interim Final, p. 294; Rand, Gary M., and Sam R. Petrocelli, Fundamentals of Aquatic Toxicology, 1985, p. 652.

Definitive Data: data that are documented as appropriate for rigorous uses that require both hazardous substance identification and concentration. Definitive data are often used to quantify the types and extent of releases of hazardous substances. Guidance for Performing Site Inspections Under CERCLA, Interim Final, p. 99; Guidance for Data Useability in Site Assessment, Draft, pp. 13 and 14.

Drinking Water Supply: any source of water (surface or ground) that is currently used or could be used to supply potable water. Guidance for Performing Site Inspections Under CERCLA, Interim Final, p.118; Hazard Ranking System Guidance Manual, Interim Final, p. 116.

Facility: any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, falling stock, or aircraft, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel. CERCLA section 101(9).

Ground Water: water in a saturated zone or stratum beneath the surface of land or water. CERCLA section 101(12).

Hazard Ranking System: scoring system used by EPA's Superfund program to assess the relative threat between sites associated with actual or potential releases of hazardous substances. It is a screening tool for determining whether a site is to be included on the National Priorities List. Hazard Ranking System Guidance Manual, Interim Final, p.1.

Hazardous Substance: CERCLA hazardous substances, pollutants, and contaminants as defined in CERCLA section 101(14) and 101(33), except where otherwise specifically noted in the HRS. 40 CFR 300, Appendix A (Hazard Ranking System), Section 1.0.

Human Exposure: any exposure of humans to a release of one or more hazardous substances via inhalation, ingestion, or dermal contact. Amdur, Mary O., John Doull, and Curtis D. Klaassen, Toxicology, The Basic Science of Poisons, Fourth Edition, 1991, p. 14; Hazard Ranking System Guidance Manual, Interim Final, pp. 153, 259, 293, 317, 363, and 411.

Nearby Populations: regularly present residents, workers, and students and sensitive environments located on or within 1 mile from the boundaries of a hazardous substance release. 40 CFR 300, Appendix A (Hazard Ranking System), section 5.2.

Populated Area: any area occupied by a regularly present resident, student, or worker and/or sensitive environment. Populated areas do not include transient populations such as business patrons or travelers passing through the area. Hazard Ranking System Guidance Manual, Interim Final, p. 412; 40 CFR 300, Appendix A (Hazard Ranking System), section 3.3.2.

Release: any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment (including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant). CERCLA section 101(22).

Screening Data: data that are appropriate for applications that only require determination of gross contamination areas and/or for site characterization decisions that do not require quantitative data. Screening data are often used to specify which areas to sample to collect definitive data. Guidance for Performing Site Inspections Under CERCLA, Interim Final, pp. 99 and 100; Guidance for Data Useability in Site Assessment, Draft, p. 15.

Sensitive Environments: consist of environmental receptors recognized in 40 CFR 300, Appendix A (Hazard Ranking System), Table 4–23, Table 5–5, and wetlands as defined by 40 CFR 230.3.

Site: area(s) where a hazardous substance has been deposited, stored, disposed, or placed, or has otherwise

come to be located. Such areas may include multiple sources and may include the area between sources 40 CFR 300, Appendix A (Hazard Ranking System), Section 1.0. The site is neither equal to nor confined by the boundaries of any specific property that may give the site its name. 60 FR 190, p. 51391.

Surface Waters: water present at the earth's surface. Surface water includes rivers, lakes, oceans, ocean-like water bodies, wetlands, and coastal tidal waters, which include embayments, harbors, sounds, estuaries, back bays, lagoons, wetlands, etc. seaward from mouths of rivers and landward from the baseline of the Territorial Sea. 40 CFR 300, Appendix A (Hazard Ranking System), section 4.0.2.

Wetlands: a type of sensitive environment defined in 40 CFR 230.3 as ''* * * those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.'' Wetlands can be natural or man-made. Wetlands generally include swamps, marshes, bogs, and similar areas. Hazard Ranking System Guidance Manual, Interim Final, p. A–20.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–5890–6]

SES Performance Review Board; Membership

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the membership of the EPA Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Zandra Kern, Executive Resources and Special Programs Division, Office of Human Resources and Organizational Services, Office of Administration and Resources Management, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202) 260–2975.

SUPPLEMENTARY INFORMATION: Section 4314 (c)(1) through (5) of Title 5, U.S.C., requires each agency to establish in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. This board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointment authority relative to the performance of the senior executive.

Members of the EPA Performance Review Board are:

William A. Spratlin (Chair), Director, Air, RCRA and Toxics Division, Region 7
Devereaux Barnes, Director, Office of Program Management, Office of Solid Waste and Emergency Response
Samuel Coleman, Director, Compliance Assurance and Enforcement, Region 6
Alexander Cristofaro, Deputy Director, Office of Policy Development, Office of Policy, Planning, and Evaluation
Deborah Y. Dietrich, Director, Office of Resources Management and Administration, Office of Research and Development
William Finister, Deputy Chief of Staff, Office of the Administrator
Phyllis Harris, Regional Counsel, Office of Enforcement and Compliance Assurance
William M. Henderson, Director, Office of Administration and Resources Management—Cincinnati, Office of Administration and Resources Management
Kenneth A. Konz, Assistant Inspector General for Audits, Office of Inspector General
Dr. Hugh McKinnon, Associate Director for Health, Office of Research and Development
John W. Meagher, Director, Wetlands Division, Office of Water
Joseph J. Merenda, Director, Health and Environmental Review Division, Office of Prevention, Pesticides and Toxic Substances
James C. Nelson, Associate General Counsel (Pesticides and Toxics Substances), Office of General Counsel
John B. Rasnic, Director, Manufacturing, Energy and Transportation Division, Office of Enforcement and Compliance Assurance
Carol Rushin, Director, Enforcement, Compliance and Environmental Justice Division, Region 8
Alan B. Sielen, Deputy Assistant Administrator for International Activities, Office of International Activities
Mary Smith, Director, Indoor Environments Division, Office of Air and Radiation
David J. O'Connor (Executive Secretary), Director, Office of Human Resources and Organizational Services, Office of Administration and Resources Management

Members of the Inspector General Subcommittee to the EPA Performance Review Board are:

Donald Mancuso, Assistant Inspector General for Investigations, Department of Defense
Everett L. Mosley, Deputy Inspector General, Agency for International Development
Thomas D. Roslewicz, Deputy Inspector General for Audit Services, Department of Health and Human Services

Dated: August 15, 1997.

Alvin M. Pesachowitz,

Acting Assistant Administrator for Administration and Resources Management.

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BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Advisory Committee for the National Urban Search and Rescue Response System

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App.), announcement is made of the following committee meeting:

Name: Advisory Committee for the National Urban Search and Rescue Response System.

Date of Meeting: September 15–16, 1997.

Place: FEMA Mt. Weather Emergency Assistance Center, The Conference and Training Center, Building 430, 19844 Blue Ridge Mountain Road, State Route 601, Berryville, VA 20135.

Time: September 15th: 9:00 a.m.–5:00 p.m., September 16th: 9:00 a.m.–5:00 p.m.

Proposed Agenda: The Committee will be provided with a program update that will address the status of ongoing audits and program reviews, functional training and program support efforts, and Fiscal Year 1997 through 1999 budgets for the Urban Search and Rescue Program. The committee will review, discuss, and develop final recommendations for the organization of the Advisory Committee working group structure and the decision making process. Other items for discussion may include sponsoring agency head involvement, authorizing legislation, functional training methodologies, and program strategic planning and budgeting.

The meeting will be open to the public, with approximately 20 seats available on a first-come, first-served basis. All members of the public