To: Maier, Brent[Maier.Brent@epa.gov]
Cc: Reyes, Deldi[Reyes.Deldi@epa.gov]; Allen, HarryL[Allen.HarryL@epa.gov]
From: Meer, Daniel
Sent: Wed 12/9/2015 6:01:32 PM
Subject: Re: U.S. EPA Follow Up Response on Exide in Vernon, CA

.....
,,,,,,,,,,
Brent the second question is not simple to answer but the easiest way to explain it is that there should be 'an imminent and substantial endangerment to human health or the environment AND no state, local or Tribal authority that is addressing the threat'. That is the classic case where an emergency response is warranted. Exide is not that.

But this is really a more nuanced conversation.

Some of the Superfund old timers might recall sites with co leads. Maybe Stringfellow or Casmalia? I am not sure.

Dan

Sent from my iPhone
Daniel Meer
Assistant Director
Superfund Division
USEPA, Region 9

On Dec 9, 2015, at 9:53 AM, De La O, Irvin <Irvin.DeLaO@mail.house.gov> wrote:

Hi Brent,

Thank you for providing us with this response. I only have two follow up questions.

1) In the first paragraph, it's stated that "rarely are the state and EPA co-leads." Can you provide us with some examples of when/where this has occurred, and why?

2) In the fourth paragraph, you explain the different manners in which EPA's Superfund program provides funding, and one of them is when the "site meets the criteria for an emergency response." What is the criteria for an emergency response?

Thank you,

Irvin De La O | Field Deputy

Congressman Xavier Becerra (CA-34)

Chairman of the House Democratic Caucus

213-481-1425 (p) | 213-481-1427 (f)

350 South Bixel Street, Suite 120

Los Angeles, CA 90017

Please consider the environment before printing this email

From: Maier, Brent [mailto:Maier.Brent@epa.gov]
Sent: Tuesday, December 08, 2015 12:47 PM
To: Montiel, Johanna; De La O, Irvin
Cc: Huetteman, Tom; Meer, Daniel; Reyes, Deldi; Gross, Barbara; Keener, Bill; Zito, Kelly; LEONIDO-JOHN, STEVEN; Mogharabi, Nahal
Subject: U.S. EPA Follow Up Response on Exide in Vernon, CA

Johanna Montiel & Irvin DeLaO

Office of Congressman Xavier Becerra

Johanna/Irvin -

I am sending along this message and the information to address the issues raised in an e-mail sent to me by Johanna on December 1st which is attached below. My colleagues who were on our most recent call with you have put this information together which I wanted to share with both of you. If after reviewing this information, you have any questions or need any additional information, or would like for me to set up an additional follow up call, please let me know.

Regards,

Brent Maier

Congressional Liaison

U.S. Environmental Protection Agency, Region IX

75 Hawthorne St. (OPA-3)

San Francisco, CA 94105

Ph: 415.947.4256

Cleanups at hazardous waste sites are generally performed using either the RCRA or Superfund legal authorities. Either the state or EPA take the lead, and rarely are

the state and EPA co-leads. In the case of RCRA facilities, states almost always take the lead when they have been delegated the RCRA program, such as in California. At complex sites where the state has the lead, EPA will sometimes contribute limited technical support.

Cleanup levels are derived using EPA's risk assessment protocols, and EPA has established risk-based screening levels as default levels that can be used at many sites. For lead in soil, the current risk-based screening level for residential soils is 400 mg/kg. This number is widely used by EPA for RCRA and Superfund cleanups of lead. California is one of a small number of states that derive their own risk-based screening levels. The science behind EPA's lead cleanup number is currently being reviewed based, in part, on 2012 recommendations from the Centers for Disease Control lowering its screening level from 10 micrograms per deciliter (ug/dL) for lead in children's blood to 5 ug/dL.

In the case of Exide, DTSC has taken the lead for the cleanup using their RCRA authorities and EPA is providing some technical support to DTSC. This technical support generally involves EPA staff providing advice to DTSC and reviewing some of the technical documents. Several offices at EPA Region 9 are currently contributing support to DTSC, and EPA is a regular participant at the Exide Community Advisory Group (CAG). There is not much additional support available beyond these activities.

EPA's RCRA program does not have separate funding for sites like this and EPA's Superfund program only provides funding when there is not a viable responsible party and when the site is either listed on the Superfund National Priorities List (NPL) or when the site meets the criteria for an emergency response. EPA recognizes that there are lead levels of concern at the residential properties near Exide that need to be addressed. As a result of the different cleanup level used by the state, their cleanup will be more extensive than if EPA were in charge of the cleanup.

At the Pennsylvania site, EPA took the lead under RCRA because the state of Pennsylvania is one of a few states that is not authorized for the RCRA corrective action program. Only EPA can conduct RCRA cleanups in Pennsylvania. At that site, EPA is using a residential soil cleanup lead level of 650 mg/kg based on some of the site specific risk factors.

From: Montiel, Johanna [mailto:Johanna.Montiel@mail.house.gov]
Sent: Tuesday, December 01, 2015 4:47 PM
To: Maier, Brent <Maier.Brent@epa.gov>
Subject: Exide in Vernon, CA

Hi Brent,

Thank you for setting up the call between your colleagues and Mr. Becerra's office to listen

to our concerns regarding the closure and clean-up of the Exide plant and residential homes in Boyle Heights/ Vernon, California. Per our conversation, Congressman Becerra already spoke to the EPA Administrator Gina McCarthy on this issue, and I believe he asked if it was possible for EPA to provide an risk assessment report and provide recommendations as to what the best steps to move forward with during this clean-up process.

Based on our conversations, this does not sound like a possibility and we appreciate that you have been working with DTSC to redirect them to other similar instances like the case in Omaha, Nebraska.

I believe it was mentioned during the call that EPA will not be able to become involved either through corrective action or superfund because the contamination of the area does not meet the 400 ppm. I was wondering how does EPA get to that number and what are the statues regulating this? Does EPA have a breakdown of the homes contaminated and the lead levels or that information that DTSC has? You also mentioned that the contamination level at Vernon, CA was only 85 ppm, do you happen to know how this number was calculated?

Additionally, I just want to flag for you some reports stating that there is some contamination of 5,000 ppm in some homes. In cases like these, where there are homes that exceed the 400 ppm threshold, can EPA become involved and would they be able to provide any resources to DTSC?

Finally, I know we talked about the case in Reading, PA where the EPA regional office worked alongside the state agency to make sure the clean-up process was completed. http://www3.epa.gov/reg3wcmd/ca/exide.html. Is the main difference just that the contamination levels were at 650 ppm?

I know I have a lot of questions, but I want to make sure I have all these answers for my boss. I really appreciate all your efforts in setting up the call and answering all of our questions.

Best,

Johanna

Johanna Montiel| Legislative Correspondent

Rep. Xavier Becerra (CA-34), Chairman of the House Democratic Caucus

202-225-6235 | 202-225-2202 (F) | Johanna.Montiel@mail.house.gov

Sign up for email updates from Congressman Becerra.