E. Scott Pruitt
Administrator

May 9, 2017

MEMORANDUM

SUBJECT: Revisions to CERCLA Delegations of Authority 14-2 Responses and 14-21A Consultations, Determinations, Reviews and Selection of Remedial Actions at Federal Facilities

FROM: E. Scott Pruitt

TO: Assistant Administrator
Office of Land and Emergency Management

Regional Administrators

The Superfund program is a vital function of the U.S. Environmental Protection Agency, and under my administration, Superfund and the EPA's land and water cleanup efforts will be restored to their rightful place at the center of the agency's core mission. As such, in order to facilitate the more-rapid remediation and revitalization of contaminated sites and to promote accountability and consistency in remedy selection, I have issued the accompanying revised CERCLA delegation of authority. With this revised delegation, authority previously delegated to the Assistant Administrator for Office of Land and Emergency Management and the Regional Administrators to select remedies estimated to cost $50 million or more at sites shall be retained by the Administrator.

The purpose of these revisions is to improve the remedy selection process and to involve the Administrator and the Administrator's office in this process more directly. In light of this revised delegation, please take all necessary steps to adjust associated consultations, reviews and other practices in a manner consistent with the revised delegation. As part of effectuating this adjustment to the remedy selection process, I ask that you involve the Administrator's Office early on and throughout the process of developing and evaluating alternatives and remedy selection. This is particularly important for sites where you anticipate that the preferred remedial alternative and/or the remedy selected in the Record of Decision will be estimated to cost more than $50 million and thus will require the Administrator's approval and signature on the Record of Decision. It is through this enhanced cooperation and continuous involvement that we will work to revitalize this essential agency effort while enhancing consistency in remedy selection across states and the regions.

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Please consult the revised delegations for additional information. The revised delegations are effective immediately.

E. SCOTT PRUITT
ADMINISTRATOR

May 9, 2017

MEMORANDUM

SUBJECT: Delegation of Authority 14-2 Responses

FROM: E. Scott Pruitt

TO: Assistant Administrator
Office of Land and Emergency Management

Regional Administrators

14-2. Responses (1200 TN 531)

1. **AUTHORITY.**
To respond to any release or threatened release of a hazardous substance, pollutant or contaminant pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, Section 104, and 40 CFR Part 300, "National Oil and Hazardous Substances Pollution Contingency Plan."

2. **TO WHOM DELEGATED.**
   a) The Administrator reserves the authority to select the remedy in the Record of Decision when the estimated cost of the remedy exceeds $50 million. The Administrator may delegate this authority to the Deputy Administrator and no further.
   b) All other authorities are delegated to the assistant administrator for the Office of Land and Emergency Management and regional administrators.

3. **LIMITATIONS.**
   a) These authorities shall be exercised subject to approved funding levels.
   b) Regional Administrators may exercise these authorities only at sites located within their respective regions, unless there is a memorandum of agreement that authorizes cross-boundary emergency response.
   c) Regional Administrators may select a response action. Consultation prior to selection may be required by memorandum from the AA OLEM.

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d) Unless waived by memorandum, the AA OLEM must approve the use of the consistency waiver in Section 104(c) (1)(C) of CERCLA for removal actions at sites not proposed to or final on the National Priorities List.
e) When the emergency waiver in Section 104(c)(1)(A) is used, regional administrators may approve removal actions costing up to $6 million. Regional administrators must seek approval from the AA OLEM for removal actions costing more than $6 million and requiring the emergency waiver. This limitation may be waived or modified by memorandum from the AA OLEM.
f) Unless waived by memorandum, the AA OLEM must concur prior to the initiation of a removal action at non-NPL sites where the proposed action is on the List of Nationally Significant or Precedent-Setting Removal Action categories.

4. REDELEGATION AUTHORITY.

a) The AA OLEM may redelegate these authorities to the office director level, or equivalent, and no further.
b) Regional administrators may redelegate these authorities to the branch chief level, or equivalent, and no further.
c) Regional administrators may redelegate to designated On-Scene Coordinators the authority to determine the need for emergency response and to approve and initiate removal actions costing up to $250,000 where site conditions constitute an emergency and up to $50,000 where site conditions do not constitute an emergency.
d) An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command to the official to whom it has been specifically redelegated.

5. ADDITIONAL REFERENCES.

a) CERCLA, Sections 101(23), 101(24), 105, 113, 116, 117, 118, 120, 121 and 126(b).
b) 40 CFR 35, Subpart O, "Cooperative Agreements and Superfund State Contracts for Superfund Response Actions."
c) EPA Delegation 14-1, Superfund State Contracts and Cooperative Agreements.
d) EPA Delegation 14-17, National Priorities List.
e) EPA Delegation 14-22, Response Action Administrative Record.
f) EPA Delegation 14-30, Acquisition of Property.
g) Limited Contracting Officer Warrant Authority issued to designated OSCs.
h) "Use of Non-Time-Critical Removal Authority in Superfund Response Actions," OSWER Directive 9360.0-40P, February 14, 2000, specifying the director, Office of Emergency and Remedial Response/OLEM will consult with the Director, Office of Site Remediation Enforcement/Office of Enforcement and Compliance Assurance prior to concurring on any engineering evaluation/cost analysis approval memorandum for a Fund-lead action that could exceed $6 million.
i) All other directives, policy and guidance issued by OLEM and OECA pertaining to response and consultation requirements.

E. Scott Pruitt
Administrator

May 9, 2017

MEMORANDUM

SUBJECT: Delegation of Authority 14-21A Consultations, Determinations, Reviews and Selection of Remedial Actions at Federal Facilities

FROM: E. Scott Pruitt

TO: Assistant Administrator
Office of Land and Emergency Management

Regional Administrators

14-21A. Consultations, Determinations, Reviews and Selection of Remedial Actions at Federal Facilities (1200 TN 539)

1. **AUTHORITY.**
Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended: to consult with agencies, departments and instrumentalities regarding investigations and studies of federal facilities under Section 120(e)(1); to review the plans for and results of such investigations and studies under Section 120(e)(2); to select remedial actions under Section 120(e)(4); and to determine under Section 120(e)(6) that remedial investigations and feasibility studies or remedial action will be done properly at a federal facility by another potentially responsible party within the deadlines provided in Section 120(e)(1), (2) and (3).

2. **TO WHOM DELEGATED.**
   a. The Administrator reserves the authority for purposes of Section 120(e)(4) to select the remedy in the Record of Decision when the estimated cost of the remedy exceeds $50 million. The Administrator may delegate this authority to the Deputy Administrator and no further.
   b. All other authorities are delegated to the assistant administrator for the Office of Land and Emergency Management and regional administrators.

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3. **LIMITATIONS.**
Consultation prior to selection of a remedial action may be required by memorandum from the AA OLEM.

4. **REDELEGATION AUTHORITY.**
   a. The AA OLEM may redelegate these authorities to the director, Federal Facilities Restoration and Reuse Office, and no further.
   b. Regional administrators may redelegate these authorities to the branch chief level, or equivalent, and no further.
   c. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command to the official to whom it has been specifically redelegated.

5. **ADDITIONAL REFERENCES.**
   a. 40 CFR Part 300, "National Oil and Hazardous Substances Pollution Contingency Plan."
   b. EPA Delegation of Authority 14-2, Response.
   c. EPA Delegation of Authority 14-21-B, Agreements with Other Federal Agencies.
   d. EPA Delegation of Authority 14-40, Evaluation of Approved Remedial Design.