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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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SUPERFUND
OFFICE OF THE DIRECTOR

JUL 26 2000

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

OSWER No. 9200.1-33P

MEMORANDUM

SUBJECT: Headquarters Consultation for Radioactively Contaminated Sites

FROM: Timothy Fields, Jr.
Assistant Administrator

TO: Addressees

PURPOSE

The purpose of this memorandum is to request that EPA Regional Offices consult with Headquarters on Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) response decisions involving (1) onsite management (e.g., capping of material in place, building disposal cells) of radioactive materials, or (2) when there is a potential national precedent setting issue related to a radioactive substance, pollutant or contaminant. This consultation policy for CERCLA site decisions that are addressing radioactive constituents is applicable to Fund and potentially responsible party (PRP)-lead sites for which a CERCLA remedial or non-time-critical (NTC) removal action is planned. This consultation service is also available (although not included in this request by Headquarters) for decisionmakers at other Federal agency-lead and State-lead CERCLA radioactively contaminated sites, or radioactively contaminated sites where Resource Conservation and Recovery Act (RCRA) Corrective Action is being conducted.

BACKGROUND

EPA has instituted a number of management review procedures to ensure national remedy selection policies and procedures are being implemented in a reasonable and appropriately consistent manner at CERCLA sites. EPA issued a summary of the various consultation procedures currently in place in the "Consolidated Guide to Consultation Procedures for Superfund Response Decision" (OSWER 9200.1-18FS, May 1997). In addition, the current process for Headquarters review and consultation for CERCLA response decisions involves a review of proposed plans at Fund-lead and PRP-lead sites in accordance with the May 1996 OERR directive "Focus Areas for Headquarters OERR Support for Regional Decision

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Making" (OSWER Directive 9200.1-17, May 22, 1996). These efforts are supplemented by various consultation requirements at the staff or management level and include: the National Remedy Review Board, removal program concurrences, lead sites workgroup and technical review workgroup review, and the Dioxin Review Workgroup. In addition, EPA has issued guidance that requests consultation for certain NTC removal actions; "Use of NTC Removal Authority in Superfund Response Actions" (February 14, 2000).

Previously at some CERCLA sites, the lack of a single comprehensive set of regulatory cleanup levels for radiation, together with the confusion as to the status of other Federal Agency regulations and guidance for establishing cleanup levels at CERCLA sites, has caused uncertainty as to the cleanup levels deemed protective under CERCLA. In response, EPA issued guidance entitled "Establishment of Cleanup Levels for CERCLA Sites with Radioactive Contamination" (OSWER No. 9200.4-18, August 22, 1997). This 1997 guidance provided clarification for establishing protective cleanup levels for radioactive contamination at CERCLA sites. The 1997 guidance reiterated that cleanups of radionuclides are governed by the risk range for all carcinogens established in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) when Applicable or Relevant and Appropriate Requirements (ARARs) are not available or are not sufficiently protective. Cleanup should generally achieve a cumulative risk within the 10^{-4} to 10^{-6} carcinogenic risk range based on the reasonable maximum exposure. The cleanup levels should consider exposures from all potential pathways, and through all relevant media (e.g., soil, ground water, surface water, sediment, air, structures, etc.). The 1997 guidance also provides a listing of radiation standards that are likely to be used as ARARs to establish cleanup levels or the conduct remedial action.

Since issuance of the 1997 guidance, EPA has provided additional guidance for addressing radioactively contaminated sites that is consistent with our guidance for addressing chemically contaminated sites, except to account for the technical difference between radionuclides and chemicals (e.g., health risks posed by radon and gamma radiation, significant additional costs for ensuring the long-term care and monitoring of onsite managed radioactively contaminated material). This effort is intended to facilitate compliance with the NCP at radioactively contaminated sites while incorporating the improvements to the Superfund program that have been implemented through Administrative reforms. We believe that these guidance documents provide a strong foundation for remedy selection at radioactively contaminated sites in a manner consistent with the NCP. Today's memorandum is the latest guidance in this effort. All guidance documents developed as part of this effort may be accessed on the Internet at http://www.epa.gov/superfund/resources/radiation/index.htm.

OBJECTIVE

Today's memorandum adds certain response actions for radioactively contaminated sites to the list of sites that we believe warrant consultation at the Headquarters level to better ensure appropriate national consistency. While we believe that the guidance documents issued to date, together with the NCP, provide a sufficient framework for appropriately consistent, reasonable

decision making under CERCLA, we believe that consultation on a subset of CERCLA sites addressing radioactive contaminants is warranted due to (1) the possibility of uncertainty over cleanup levels, (2) technical differences between radionuclides and chemicals, and (3) heightened stakeholder interest at many of these sites.

IMPLEMENTATION

Remedial and removal actions covered by consultation request

Consultation is requested at Fund-lead or PRP-lead CERCLA sites that involve onsite management (e.g., capping of material in place, building disposal cells) of radioactively contaminated material. It should be noted that although this consultation request applies specifically to onsite management of radioactively contaminated material, such response actions are generally not nationally precedent setting. Further, it is not the intent of this memo to discourage these types of response actions where appropriate. However, sites where these actions have been conducted have generally received much greater stakeholder interest, even in comparison with other radioactively contaminated sites. As a result, I am requesting this consultation to provide added sensitivity to stakeholder concerns at the national level.

This consultation request applies to both remedial and NTC removal actions. In addition to response decisions involving onsite management of radioactively contaminated material, Regions are also urged to consult with Headquarters when considering response actions that may constitute a national precedence for radiologically contaminated CERCLA sites.

Federal Facility, State Lead, and RCRA Corrective Action

This consultation service is also available for other Federal agency-lead and State-lead radioactively contaminated CERCLA sites, whether or not those sites are on the National Priorities List (NPL). In addition, because RCRA corrective actions are conducted in a manner consistent with CERCLA response actions[1], this consultation service is also available for those radioactively contaminated sites where RCRA corrective action is being conducted.

Consultation process

Consultations with Headquarters to meet this memo's request shall take place with OERR staff contact, Stuart Walker at (703) 603-8748, or if Stuart is unavailable, Robin M. Anderson at (703) 603-8747. Regions are asked to initiate consultation with Headquarters early in the

[1]For further information regarding the consistency between CERCLA response actions and RCRA corrective actions, please see memorandum from Office of Enforcement and Compliance Assurance Assistant Administrator Steven A. Herman and Office of Solid Waste and Emergency Response Assistant Administrator Elliott P. Laws to the Regions entitled: "Coordination between RCRA Corrective Action and Closure and CERCLA Site Activities" (September 24, 1996).

process (e.g., prior to the proposed plan, Engineering Evaluation/Cost Analysis (EE/CA), or Explanation of Significant Differences (ESD)), such as when first considering onsite management of radioactively contaminated materials among the most favored response alternatives. Early consultation will allow the Regions to address questions or potential issues without adversely delaying the response action.

It is envisioned that most consultations will involve only one or two telephone discussions. Stuart and Robin will also coordinate their consultations with other Headquarters offices (e.g., the Federal Facilities Restoration and Reuse Office, the Office of Solid Waste, the Office of Site Remediation Enforcement, the Federal Facilities Enforcement Office, the Office of Radiation and Indoor Air, and the Office of General Counsel), when appropriate.

Addressees:
National Superfund Policy Managers, Regions 1-10
Superfund Branch Chiefs, Regions 1-10
Superfund Branch Chiefs, Office of Regional Counsel, Regions 1-10
Radiation Program Managers, Regions 1, 4, 5, 6, 7, 10
Radiation and Indoor Air Branch Chief, Region 2
Residential Domain Section Chief, Region 3
Radiation and Indoor Air Program Branch Chief, Region 8
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