Special Accounts Senior Management Committee

January 12, 2012

Agenda

- Follow-up from August meeting
- Follow-up from SF DD Discussion on Management of SAs
- Research & Next Steps on Establishment of SAs and Deposits
- Using Special Accounts for RCRA Corrective Action
- Review Action Items and Next Steps

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Follow-up from August 2011 Meeting

- Interim Reclassification Process
  - Committee meeting notes reflect the Committee agreed to:
    - No reclassifications will be processed during the 1st Quarter FY 2012
    - CFC will process all KV transactions during the 2nd Quarter FY 2012
    - Exemption 5 - Deliberative Process [redacted] OFM will work with staff to develop a new business process for reclassifications
  - Proposed change to process:
    - CFC will process <u>all</u> KV transactions in FY 2012

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Follow-up from August 2011 Meeting

- Compass went live on October 21, 2011
- Exemption 5 - Deliberative Process [redacted]
- Regions may be able to charge their time to prior year special account resources within PeoplePlus, estimated January 10, 2012.
- Potential Issues
  - Potential difficulties with reclassification and inability for Compass to recognize decreasing transactions to old accounting elements.
  - OFS is unable to move receipts between existing subaccounts of a special account.
- Potential Future Issue
  - Tracking and utilizing multiple years of special account resources, e.g. 2011 which includes all prior years, 2012, 2013...

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Follow-up from SF DD Discussion on Management of SAs

OSRTI and OCFO

Follow-up from SF DD Discussion on Management of SAs

- OSRTI, OB, and Region 2 proposed recommendations to the regional Superfund Division Directors at their meeting on November 10th.
- Nine regions did not raise objections to the proposed recommendations.
- Region 6 provided a counter-proposal.
- Exemption 5 - Deliberative Process [redacted]
- The following proposals are for SASMC consideration to implement in FY 2012.

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Accounts with more than $1M available or $0 obligated past 5 years

Proposal:

- Regional SF DDs review accounts with more than $1M available or $0 obligated past 5 years annually to ensure effective utilization.
  - No certification required.
  - Headquarters will provide reports to the regions capturing these accounts for review.
- As part of annual and mid-year work planning review cycles, regions and HQ will closely review accounts with more than $1M available or $0 obligated past 5 years.
- OSRTI will work with OCFO and other staff to develop reports to identify accounts with $0 obligated in the past 5 years.

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Long-term use of special account funds

Proposal:

- Regions should plan to retain and use special account funds for no more than 15 years after the associated site achieves construction completion.
  - Includes O&M, Five Year Reviews, LTRAs
- Funds may be retained for more than 15 years after site CC is achieved based on site-specific circumstances and/or specific settlement language.
  - Regions need to consult with HQ on those circumstances.

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Accounts with less than $25,000 available

Proposal:

- Regions and HQ will evaluate special accounts with less than $25,000 available for potential closure as part of the annual work planning and mid-year review planning cycles.
  - Currently focus on those accounts with less than $10,000 available.

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Use of special account resources before appropriated funds

Proposal:

- Regions and HQ will review as part of annual work planning and mid-year reviews sites with unliquidated obligations of appropriated funds where special account funds may be available to replace those appropriated funds.
- OSRTI will continue to review as part of requests for funding from the remedial action (RA) site allowance available special account resources and if those funds can be used prior to appropriated resources.

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Special Account Review Cycles

Proposal:

- Conduct annual work planning October – December
  - Currently done July - October
- Conduct mid-year reviews March – May
- Provide regions opportunity to provide written response to account-specific questions in lieu of conference calls with OSRTI and OSRE

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Next Steps

- Memorialize changes in a memorandum to regional SF DDs.
- Incorporate changes into the Monitoring Plan for Special Account Planning Data.
- Develop Compass business objects reports for:
  - Accounts with $0 obligated past 5 years
  - Sites with special accounts that have unliquidated obligations of appropriated resources
- Develop ReportLink report for accounts at sites with CC achieved more than 15 years ago.

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Research & Next Steps on Establishment of SAs and Deposits

OSRTI

Establishments & Deposits Research

- Reviewed current guidance on special account establishment and deposits
- Reviewed the following data:
  - NPL status of sites with special accounts
  - Current stage of site cleanup for sites with special accounts
  - Stage of site cleanup at time of account inception
  - Rate of account inceptions since FY 1990
  - Utilization of accounts by NPL status, least advanced cleanup stage, and FY of account inception
  - Deposits into accounts after reclassification

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Establishments & Deposits Research

- NPL Status
  - Majority of accounts (798) and funds ($1.6B) are available at sites final or deleted on the NPL.
- Current Stage of Site Cleanup
  - Majority of accounts (340) are at CC sites, but majority of funds ($665M) are at sites with a study underway.
- Stage of Site Cleanup at Account Inception
  - Majority of accounts were opened when there was a study underway (443) or remedial assessment not begun (248).
  - 15 accounts were opened when the site was deleted from the NPL and 214 accounts were opened when the site was CC.

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Establishments & Deposits Research

- Rate of Account Inception
  - The most accounts were established in FY 2007 (163).
- Account Utilization
  - Account utilization is highest in older accounts, lower in most recently opened accounts.
- Deposits after Reclassification
  - Additional funds have been deposited into 18 accounts after reclassification (from FY 2008-FY 2011).*

Exemption 5 - Deliberative Process

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Establishments and Deposits Research

- Summary of Findings
  - No strong correlation between NPL status, cleanup stage, age of account, and utilization.
  - Accounts have been established at later stages of site cleanup.
  - Funds have been deposited into accounts after special account funds were reclassified.
  - There is very little information in guidance documents about deposits into accounts.
  - Previous guidance documents use $25,000 as a threshold for considering the establishment of a special account.

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Establishments and Deposits Research

- Next Steps
  - Provide best management practices to regions for managing deposits into special accounts, particularly for recurring oversight payments.
    - Review account balances before deposit oversight payments.
    - Payments can go to Trust Fund <u>or</u> special account.
  - Does the Committee want proposals on the following?
    - Establishing accounts for particular stages of site cleanup.
    - Threshold amount to establish an account.

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Using Special Accounts for RCRA Corrective Action

OSRE

Draft OGC Opinion

- OGC has provided a draft legal opinion on the use of funds in special accounts to support RCRA corrective action.
- The following are the 4 scenarios outlined in OGC's draft opinion.

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Exemption 5 - Attorney-Client Privilege

[redacted]

Exemption 5 - Attorney-Client Privilege

- [redacted]
- [redacted]
- [redacted]

Exemption 5 - Attorney-Client Privilege

- [redacted]
- [redacted]
- [redacted]
- [redacted]

Exemption 5 - Attorney-Client Privilege

- [redacted]
- [redacted]
- [redacted]
- [redacted]

Exemption 5 - Attorney-Client Privilege

- [redacted]
- [redacted]
- [redacted]
- [redacted]
- [redacted]

Next Steps

- Exemption 5 - Deliberative Process [redacted]
- Implementation: How should information be presented to the regions?

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