14-6. Inspections, Sampling, Information Gathering, Subpoenas, and Entry for Response

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, to enter any vessel, facility, establishment, place, property or location for the purposes of inspections, sampling, information gathering, and response actions; to carry out inspections, sampling and information gathering; to require the production of information and documents; to issue subpoenas; to issue compliance orders for production of information and documents; to issue compliance orders for entry and inspection; to obtain and execute warrants to support this authority; and to designate representatives of the Administrator to carry out inspections, sampling, information gathering, and response actions.

2. TO WHOM DELEGATED. All of the authorities listed in paragraph 1 are delegated to the Director, Superfund Division. In addition, certain of those authorities also are delegated as follows:

a. The authority to enter any vessel, facility, establishment, place, property or location for the purposes of inspections, sampling, information gathering, and response actions is delegated to Remedial Project Managers and to On-Scene Coordinators in the Superfund Division.

b. The authority to carry out inspections, sampling and information gathering is delegated to Remedial Project managers and to On-Scene Coordinators in the Superfund Division.

c. The authority to require the production of information and documents is delegated to the Branch Chief level in the Superfund Division; and to the Section Chief level in the Office of Regional Counsel.

d. The authority to issue compliance orders for production of information and documents is delegated to the Regional Counsel when such a compliance order relates to a request for information or documents which the Office of Regional Counsel had issued.

3. LIMITATIONS.

a. Prior to issuing compliance orders regarding information gathering or compliance orders for entry and inspection, or issuing subpoenas, the delegatees in paragraph 2 must consult with the Assistant Administrator for Enforcement and Compliance Assurance, or his/her designee, to the extent required by EPA

14-6. Inspections, Sampling, Information Gathering, Subpoenas, and Entry for Response (cont'd)

Headquarters Delegation 14-6 and as required by, or modified by, any subsequent memorandum or Roles Chart issued by the OECA. For example, under the Roles Chart dated January 2010, provided that an administrative subpoena issued under CERCLA section 122(e)(3)(B) does not deviate significantly from the Agency's model subpoena, consultation need not occur. In addition, provided that a unilateral administrative order to compel compliance with an information request, and issued under CERCLA section 104(e)(5)(A), does not deviate significantly from the Agency's model order, consultation need not occur.

b. Prior to the Superfund Division Director, or any other delegatee in the Superfund Division, exercising the following authorities, that person must receive the concurrence of the Regional Counsel or designee: issuing subpoenas; issuing compliance orders for production of information and documents; issuing compliance orders for entry and inspection; obtaining and executing warrants.

c. Prior to the Superfund Division Director, or any other delegatee in the Superfund Division, exercising any of the authorities listed in paragraph 1 in a matter which is the subject of litigation, which has been referred for litigation, or which is the subject of a court order, that person must receive the concurrence of the Regional Counsel or designee.

d. With respect to requiring the production of information and/or documents, prior to the Superfund Division Director, or any other delegatee in the Superfund Division, exercising that authority, that person first must obtain the concurrence of an attorney in the Office of Regional Counsel; prior to the Regional Counsel, or any other delegatee in the Office of Regional Counsel, exercising that authority, that person first must obtain the concurrence of either an assigned staff person or a manager in the Superfund Division.

e. Prior to exercising the authority referenced in paragraph 2.d, the Regional Counsel must obtain the concurrence of the Director, Superfund Division.

4. RE-DELEGATION AUTHORITY. These authorities may not be re-delegated.

14-6. Inspections, Sampling, Information Gathering, Subpoenas, and Entry for Response (cont'd)

5. ADDITIONAL RERENCES.

a. Sections 104(e), 109(a), 109(b), and 122(e) of CERCLA.

b. National Contingency Plan, 40 CFR part 300.

c. Current version of the OECA-issued "Roles Chart" establishing those actions taken under CERCLA as to which Regions must obtain prior approval, concurrence, or consultation from the AA for ECA or his/her designee.

d. "Revised Prior Written and Oral Approval Procedures for CERCLA and Non Regulatory RCRA/OPA/UST Settlements," Kenneth W. Peterson, January 8, 2010.