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**EVALUATION OF THE
PLAN TO ENHANCE THE ROLE OF STATES AND TRIBES
IN THE SUPERFUND PROGRAM**

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GENERAL OVERVIEW

This evaluation reports the progress made on 17 pilot projects implementing the recommendations in the “Plan to Enhance the Role of State and Tribes in the Superfund Program” (referred to in this report as the *Plan*).¹ This evaluation reviews successes and challenges associated with implementing the various chapters of the *Plan*: readiness assessment, development of model agreements, financial and technical assistance and the unique challenges facing the program in Indian Country. These pilots also afford a snapshot of general issues related to interaction between federal and State/Tribal personnel.

The *Plan* sets forth a comprehensive national approach for States and Tribes to take a more active role in managing and cleaning up Superfund sites. EPA recognizes the important role of States and Tribes as partners in the cleanup of hazardous waste sites. The *Plan* was developed so EPA could more fully share Superfund program responsibilities with interested and capable States and Tribes, enabling cleanup of more sites. In addition, a comprehensive method is provided for States, Tribes, and EPA to more flexibly manage contaminated sites, within the overall Superfund goal of protecting human health and the environment. Even though roadblocks were encountered with some of the pilots, none of these barriers proved to be statutory and issues were resolved within the current Superfund law, CERCLA, as amended. This report outlines lessons learned through national pilots which have been testing the *Plan* to determine which of the recommendations and strategies work and which need improvement.

EVALUATION METHODOLOGY

Scope: Eight State and nine Tribal pilots projects participated in this initiative and are outlined in Figure 1 -- Pilot Summary Table.

Not all pilot participants completed, nor was it pertinent to complete, all portions of the *Plan*: (1) seven pilot participants completed the readiness assessment; (2) eleven pilot participants completed agreements of which six followed the model agreement structure in the *Plan*; and (3) 13 of the pilot projects requested money, technical assistance, or training to implement pilots.

Limitations: The pilots are at varying stages of completion. The findings, lessons learned and conclusions are based on information as of May and status as of September 2000.

The pilots represented a good cross-section of the Superfund program pipeline even though the majority were non-NPL, site-specific or focused on a smaller subset of activities than originally envisioned in the *Plan*.

Evaluation Activities: Over the last 18 months, EPA HQ and Regional personnel have held periodic telephone conference calls to discuss the status of the pilot projects. These were at least monthly, or more frequent if pilot status warranted it.

In addition, Regional EPA and State or Tribal staff have participated in quarterly reporting that has gauged the success of the readiness assessment, the model agreement process for determining role and responsibilities and, financial/technical assessment criteria in the *Plan*.

In May 2000 EPA conducted a workshop with regional, State and tribal pilot coordinators to explore the pilot projects experiences with the *Plan*'s management process in a more discussion based forum.

This evaluation incorporates recurrent ideas and experiences and analytical results from all of these events.

¹ The Plan to Enhance the Role of States and Tribes in the Superfund Program can be obtained by requesting EPA document 540-R-98-012, March 1998 (www.epa.gov/superfund/states/strole/index.htm).

The *Plan* envisions States and Tribes increasing complementary roles in the federal Superfund program. Overall, the *Plan* was successful and reinforced the theory that no one approach suits all situations (e.g., one size does not fit all). This framework can be used to customize State/Tribal/Federal roles and assistance needs as they develop. Of the pilot projects implemented, ten relate to a State/Tribe newly managing portions of the program and seven pilots involve the State/Tribe assuming new activities for site specific initiatives. The efficacy of the *Plan* as used by site-specific pilots demonstrates the flexibility of this management approach. In each case, the Region and State/Tribe were able to work together to tailor the *Plan* to the project.

The process in the *Plan* is objective and serves to place EPA, States or Tribes together at the table to accomplish a common goal. This evaluation examines just the pilot projects. For these pilots the *Plan*'s approach, an iterative process of conducting a readiness assessment, developing a model agreement and identifying financial and technical assistance needs, succeeded in improving understanding and communications both with new activities (Utah removal support program) and with existing relationships (ex: Delaware, Kansas and South Carolina). Many participants were skeptical that the process could improve already strong and positive relationships – but in several pilots it did. In at least one pilot, State officials noted that the ‘assessment of strengths and weaknesses proved to be very useful.’ However, no matter how objective a process is, a partnership of work sharing is hard to establish if there is lack of trust between EPA and a State or Tribe. These pilot projects demonstrated that this process allows staff to work through difficult issues, differences in goals and approaches, and is helpful in identifying areas that need to be addressed prior to building a partnership. In either situation, we repeatedly heard that constant communications is the key to successful work sharing arrangements.

The Superfund program in many States has reached a steady state of activity and funding; and, like EPA, many States are working under personnel and appropriation ceilings and staff is fully employed with work being conducted under State laws. Thus, to take on new workloads at either the Federal or State level either efficiencies must be created or other activities must be delayed. In this environment, staff want to know what they can expect and gain from participating in this effort. Reports and the workshop clearly show that the increased autonomy to make Superfund decisions associated with some pilots, and new, complimentary, well-understood roles in other pilots, demonstrated an increased efficiency that can only help in getting more sites addressed more quickly. In several pilots, the States wanted and requested a work sharing agreement that relied upon EPA's Federal enforcement authorities being available if needed. For most pilot projects, both the recipient and EPA learned that they could benefit from building innovative work sharing arrangements. For the States and Tribes these work sharing agreements can mean achieving identified goals that are in their interest.

We would note that there are other initiatives² that also enhance the State/Tribal role in the Superfund program. These efforts, which often include new activities to be accomplished by States or Tribes, can benefit from using the *Plan*. In the final, comprehensive quarterly report, the pilot participants expressed their view that other program areas could benefit from applying parts of the *Plan*. In addition to those noted below, the respondents specifically identified Core program planning, PA/SI, responsibility for post-construction activities, lead vs. support responsibility determinations, and site work sharing and management as areas that might benefit from use of the process in the *Plan*.

READINESS ASSESSMENT SUMMARY

Description

Of the nine Tribal and eight State pilots, it was appropriate for seven of the States and one of the Tribes to perform the readiness assessment laid out in the *Plan*. The pilots evaluated for this section were Connecticut, New York, Delaware, South Carolina, Inter-Tribal Environmental Council (ITEC), Kansas, Utah and Hawaii. The attached matrix provides a brief description of each pilot.

The length of time to implement the readiness assessment of the *Plan* averaged around three months. Most pilot participants agreed that this process can illustrate capability to take the lead on pieces of the program in a shorter time frame when compared to other media program assessments (e.g., RCRA). At the same time, many of the pilots were site-specific and pilot participants have expressed concern that the process was too time consuming for a one-time State or tribal lead on a project.

Eight of the nine tribal pilots were for capacity building and assistance, and the readiness assessment modules did not apply to them directly. The modules were for traditional Superfund pipeline activities for work-sharing with the State/Tribes, and not for capacity building. Due to miscommunication, the ITEC tribal RI/FS pilot did not complete a readiness assessment, as they did not realize a readiness assessment was expected of them for this pilot process. EPA did receive feedback from the States on the readiness assessment modules that were piloted. Observations from these pilots follows.

² Examples of other initiatives include identifying the site universe on Tribal lands, the site assessment work sharing effort in response to GAO study, revisions to Subpart O including the incorporating block (now call consolidated) funding pilots, and State selection of remedy pilots.

Observations from Pilots

Pros

- **Many States had prior Superfund experience and a working relationship with their EPA Region prior to implementing the pilot. Moreover, many States felt the Regions were aware of State capabilities and weaknesses. However, many of the same States said the end result of putting the readiness assessment “on paper” was beneficial; even though, while going through the process the readiness assessment did not appear to provide new information.**
- **Most States relied on EPA for the enforcement components of the pilots. Federal enforcement capabilities that were not available at a State level were seen as a strength.**
- **Parties gained a better understanding of each other, increased trust, and built mutual confidence, in spite of barriers encountered as a result of piloting the readiness assessment process for the first time.**
- **The readiness assessment provided a clearer picture of what responsibilities needed to be shared between the State and EPA. EPA and States better understood each others strengths and limitations as a result of this assessment.**
- **The readiness assessment process made the “agreements” section of the *Plan* go faster and smoother, as roles and responsibilities were discussed while addressing the module criteria.**

Cons

- **Many pilot participants felt the readiness assessment was merely an exercise, because they can currently increase their role site specifically without going through this detailed process. Assessment might be good for authorizing the State/Tribe to conduct pieces of the program permanently, but may be too resource intensive for a one time activity.**
- **States did not understand the *Plan*'s existing flexibility for assessing the readiness criteria in situations where experience showed they can address the situation.**
- **Readiness assessment modules could be difficult to apply where Tribal Superfund programs differ significantly from the Federal program.**
- **Limited understanding of the flexibility in the *Plan* also appeared as some recipients believed they needed to redundantly address issues for assessing readiness for activities included in more than one module.**

Conclusions

Overall, the feedback on the readiness assessment chapter of the *Plan* was positive, and the pilot participants felt that there was sufficient information in the modules; moreover, no changes are needed for the modules in the *Plan*. However, the area that needs improvement is communications. Communications about the expectations with this chapter, along with how to prepare an assessment and implement it could have been improved. For example, EPA could have specifically noted that the readiness assessment goal was to establish a baseline measure of current capabilities, rather than leaving this open to the perception that it might question or challenge a State/Tribe's ability to manage an aspect of the Superfund program. Several participants believe the EPA "sample" module illustrating the level of detail needed to perform readiness assessment was very valuable. States recommended that EPA provide the "sample" up-front before State/Tribes initiate this section of the *Plan*. Other main areas of miscommunication are listed below.

- Some thought that Tribes would never have to do an assessment. This is not correct. The *Plan* treats States and Tribes equally. If a pilot participant requested to pilot a pipeline module of the *Plan*, then the expectation was that a readiness assessment would be performed.
- The *Plan* does not require that each readiness assessment address all of the modules; State/Tribes can take the lead on pieces of modules and EPA can work-share the other areas. Modules can be completed for a site or a section of the program.
- Participants felt terminology used in modules could be confusing.
- Participants' perception was that their past experience was not accounted for.

Even though the *Plan* did address these areas and many others in detail, there were still misunderstandings when it came to pilot implementation. The length and breadth of the *Plan* might have deterred pilot participants from reading the readiness chapter closely. Without this careful reading, many pilot participants relied on their assumptions of what they thought was covered in the *Plan*, instead of the actual process recommended in this chapter. Again, better communication up-front explaining these areas could lead to more efficient and successful future readiness assessments.

AGREEMENTS SUMMARY

Description

Eleven of the seventeen pilots used agreements to document agreed upon roles and responsibilities. Six followed the model agreement format envisioned in the *Plan*, one used an

enforcement agreement, and the remaining four pilots used a cooperative agreement format instead. The use of different contractual agreement is supported by the model agreement section of the *Plan* which calls for a memorandum of agreement on roles and responsibilities and addresses *how* we jointly intend to do business. In this respect a model agreement is different from a cooperative agreement which conveys financing. The attached matrix provides a brief description of each pilot.

The pilot projects display a wide variation in both the time it took to develop an agreement and in whether the recipient or EPA first drafted the agreement. The agreement process appeared to move more smoothly for those pilot projects where either the Region or the State was involved in development of the *Plan*. Those States and Regions who were involved in development of the model agreement chapter of the *Plan* were more likely to develop agreements similar to the model agreement. States and especially Tribes not involved in the development were more likely to amend the cooperative agreement format with which they were most familiar.

Observations from Pilots

Pros

- Having discussions of roles, responsibilities, and authorities early on in the agreement process prevented major issues from arising later and was useful in avoiding personality-based decisions.
- Although it was initially assumed the agreements would be in the format of the model agreement, flexibility in the *Plan* enabled pilot project personnel to select the format that was most comfortable to them.
- Through the process of negotiating an agreement based on the readiness assessment, parties gained a better understanding of each other. This process also served to increase mutual trust in most cases.
- The components identified in the agreements chapter of the *Plan* (i.e., roles, community involvement, authorities, etc.) provide a helpful template of areas to discuss.

Cons

- Some of the pilot personnel had not been involved in the development of the agreement, and didn't fully understand its purpose or its flexibility. As a result, they viewed the agreement as unnecessary and a waste of time and resources.
- Because of the shortage of travel funds coupled with the lack of pre-award funding, some Tribes had difficulties in attending meetings with EPA personnel to draft the agreements.

Conclusions

- **The format of the agreement is less important than the discussions and agreements that lead to the agreement.**
- **The scope and format of the agreement must be flexible. The complexity of the agreement should reflect the complexity of the activities being undertaken.**
- **The agreement part of the *Plan* should not be changed and can be enhanced if EPA uses communication and education tools to better clarify the intent and flexibility of the agreement process.**

FINANCIAL AND TECHNICAL ASSISTANCE SUMMARY

Description

Financial and technical assistance recommendations did not envision new or unique activities, rather, the Plan focused largely on national initiatives such as implementation of consolidated (block) funding, modification of the advice of allowance structure, and revision of the Superfund regulation for cooperative agreements, 40CFR Part 35, Subpart O. Progress is being made on all fronts and consolidated funding is now available to States in all EPA Regions and is being incorporated as a normal option for doing business as part of the revisions to Subpart O, the advice of allowance structure has been simplified, and a workgroup to revise Subpart O includes representatives of State government.

It is important to note that these pilot projects prompted a willingness to explore new opportunities to provide financial and technical support. The resources, both personnel and monetary, were made available to experiment and, particularly as it relates to Tribal pilots, to focus the time and attention needed to address barriers discovered during the process. Although not directly related to financial and technical assistance chapter, the use of existing financial and technical assistance tools actually allowed the new activities occur in several of the pilots.

Of the seventeen pilots, five States and all Tribes received financial or technical assistance during pilot implementation. EPA Regions funded State pilots from within existing regional allowances. Supplemental headquarters funding of about \$600,000 was provided to support Tribal projects. The States of Delaware, Kansas, New York, and South Carolina used funding within existing Remedial, Support Agency, or Pre-remedial cooperative agreements to accomplish pilot objectives, while Utah received new funding for pilot activities.

Three State pilots and four tribal pilots requested some form of technical assistance, training, or support through other EPA technical resources. In addition, the Alaska Inter-Tribal Council will be provided training in the future as part of their agreement. Specific examples include:

- The South Carolina pilot utilized EPA's Contract Laboratory Program to supplement their analytical services,
- Technical assistance and training in the Dip Vat Remediation pilot, through which the Pueblo Office of Environmental Protection (POEP) developed capability to conduct cleanup actions with greater efficiency and at lower costs than anticipated; and
- Utah's comprehensive assistance (funding, training, technical assistance) for developing removal program capability increased the State's ability to manage removal activities and support EPA efforts.

Other pilot participants requested training for such activities as cost recovery, quality control/quality assurance, operations and maintenance activities, and site-specific scientific assistance.

EPA personnel support of pilots was modest, a total of about three FTE's across the Regions and less than 2 FTE's at headquarters. This total FTE was contributed by about fifty individuals in offices that include General and Regional Counsels and Grants Administration in addition to the Superfund program.

Observations from Pilots

Pros

- Several pilots identified financial and technical needs up front, then used new assistance or work-sharing between the parties to meet pilot needs.
- The pilots highlighted barriers to funding tribal consortia and providing Core and Support Agency assistance independent of tribal jurisdiction. Resolution of these issues within existing law and regulations has significantly improved the EPA's ability to fund tribal Superfund participation. Resolution of specific barriers is discussed under the Tribal Section of this report.
- A deviation from requirements of Subpart O was successfully used to implement the Delaware pilot. Revisions to the regulations will allow this pilot to become normal operations without a deviation.

Cons

- Because many of the pilot projects are site-specific, limited efforts were made to conduct long-term forward planning for financial assistance. This forward planning is necessary to ensure the availability of resources and can help ensure that the State or Tribe can identify interest in new areas of involvement in the Superfund program.
- The link between readiness assessments and assistance planning was not as clear as envisioned in the *Plan*.
- The training and technical assistance essential to success in enhancing the role of States and Tribes in this program requires both funding and personnel investments by EPA.

Conclusions

- The assistance recommendations in the *Plan* do not need to be revised. The process for assistance planning could be clarified to ensure that financial and technical assistance needs may be anticipated and budgeted properly.
- Based on pilot costs, it appears that wider implementation of the process outlined in the *Plan* could be accomplished without significant added costs. However, EPA needs to continue placing sufficient resources in scientific research, critical expertise such as GIS, risk assessment modeling, and specialized training that supports State and Tribal involvement in Superfund.
- For program-component projects, such as work-sharing, assistance planning should be linked to readiness assessment findings.
- For site-specific response projects, assistance needs are driven by the specifics of the sites involved and evolve iteratively.
- A combination of technical and financial assistance is important because States and Tribes sometimes have funding, but not the personnel to run a program, and vice versa.

TRIBAL SUMMARY

Factual Description

EPA approved nine pilots with Tribes in six EPA Regions. A distinguishing factor for the tribal pilots is that EPA provided additional funding to support these efforts, where needed. The tribal pilots largely consisted of capacity-building efforts, and were funded through Support Agency and Core Cooperative Agreements. An exception is the Inter-Tribal Environmental Council (ITEC) of Oklahoma and Quapaw Tribal pilot, which was awarded as a Core Cooperative Agreement and a

Remedial Cooperative Agreement to conduct the first-ever tribal-lead RI/FS. In the case of the Pueblo Office of Environmental Protection (POEP), the Leech Lake Band of Chippewa, and the Alaska Inter-Tribal Council (AI-TC), the projects would test completely new approaches to better accommodate tribal needs and perspectives within the Superfund program.

Observations from Pilots

The fact that EPA and Tribes were testing new ways in which Tribes can participate in the Superfund process in the pilots resulted in EPA encountering a number of regulatory “grey areas” with respect to implementing the Superfund program in Indian Country. In each instance, EPA sought to clarify the regulations in the context of Indian Country or, in some cases, permanently “fix” unintended regulatory barriers to tribal involvement in the Superfund program. Examples of program implementation barriers that arose through the pilots, and the solutions reached to overcome them include:

- **Barrier:** No documented authority to fund Inter-tribal consortia under CERCLA §104(d): CERCLA §104(d) gives EPA authority to enter into cooperative agreements with Indian Tribes, but does not specify inter-tribal consortia.
- **Permanent Solution:** A regulatory fix under Subpart O. Interim solution: EPA published a *Federal Register* notice clarifying inter-tribal consortia eligibility requirements and EPA authority to fund inter-tribal consortia under CERCLA §104(d) (and several other EPA program authorities) (*Federal Register* September 29, 1999, Pages 52503-52505).
- **Barrier:** Subpart O places an unnecessary requirement on Tribes to demonstrate “jurisdiction” over a site to be eligible for certain Cooperative Agreement funding. Subpart O references the NCP “treatment as a State” requirements as part of the eligibility requirements for approving any CERCLA §104(d) cooperative agreement with Tribes. The requirement for Tribes to demonstrate jurisdiction over a site can preclude Tribes from participating at Superfund sites that may not be under direct tribal jurisdiction, but are still impacting the Tribe (e.g., a site directly bordering a reservation boundary).
- **Permanent solution:** A regulatory fix under Subpart O. Interim solution: Approved a class deviation from the Subpart O jurisdiction requirement for Core and Support Agency cooperative agreements (in which jurisdiction is irrelevant to activities to be performed).
- **Barrier:** Funding an inter-tribal consortia in which one or more of the member Tribes do not have Federal recognition. That is, the inter-tribal consortium does not meet EPA’s eligibility requirements for inter-tribal consortia with respect to CERCLA §104(d) cooperative agreements.

- **Permanent Solution:** Fund a consortium under CERCLA §311(b) as a non-profit entity (assuming grant objectives fall within the scope of allowable activities).
- **Barrier:** Determination of whether, when and how EPA can fund a Tribe to develop Applicable or Relevant and Appropriate Requirements (ARARs)³, including cleanup standards, on tribal land through Superfund.
- **Permanent Solution:** The Superfund program may fund a Tribe to develop tribal ARARs, and will consider doing so if the magnitude and scope of contamination problems appear sufficient for this activity. This means that Indian Country must have more than one suspected site. EPA will also make a determination that the requirements being developed by the Tribe qualify as an ARAR. ARARs must be non-site specific; and the absence of such standards would result in inconsistent cleanups for multiple sites with similar wastes. The funding vehicle for development of tribal ARARs, if approved, would be a Core Cooperative Agreement.
- **Barrier:** Tribe unable to use CERCLA authority to lead a waste removal effort as part of a training module on bioremediating sheep dip vat sites.
- **Permanent Solution:** After exploring approaches under the EPA Time-Critical and Non-Time Critical removal processes, it was determined that both processes were unsatisfactory for allowing a tribal-lead effort. The solution involved deviating from the Superfund regulations, which triggered the statutory requirements of the Resource Conservation and Recovery Act (RCRA). In lieu of seeking a (time-consuming) RCRA permit to conduct the cleanup, the Tribe and Region agreed that the Region would issue a RCRA §7003 order directly to the Tribe. The order contained specific cleanup standards worked out between the RCRA and Superfund programs.

Conclusions:

Tribally-pertinent conclusions that specifically relate to Readiness, Agreements or Assistance chapters from *The Plan* can be found under those headings in this report. Overall, the process of working through nine different Superfund enhanced role pilots with Tribes showed that:

- There is significant interest from Tribes to become involved in the Superfund program;

³An ARAR is applicable when a requirement, criteria or limitation is promulgated under Federal environmental or State environmental or facility siting law and is more stringent than the Federal requirement. Relevant and appropriate requirements address situations sufficiently similar to those encountered at a CERCLA site, that their use is well suited to the situation being addressed.

- **Tribes may have different issues (compared to States) and thus different approaches towards involvement in Superfund;**
- **EPA consultation with Tribes on a government-to-government basis is essential.**
- **Most Tribes are at the capacity-building stage to determine whether, or the extent to which they will seek program development, and are seeking training on many aspects of Superfund.**
- **Federal funding to Tribes is critical to support continued tribal involvement in Superfund.**
- **Based on the number and type of issues encountered through the tribal pilots during this snapshot of time, EPA should continue to seek regulatory clarifications and policy solutions in the future to better address unique tribal issues in Superfund.**
- **Findings from tribal pilots support the tribal recommendations outlined in the *Plan*.**

RECOMMENDATIONS TO MANAGEMENT

The eight State and nine tribal pilot projects comprehensively tested the methodology advocated in “The Plan to Enhance the Role of States and Tribes in the Superfund Program.” As a group, these pilots tested the *Plan* for all major programmatic aspects of the Superfund program: program capacity-building, assessment, removal, site characterization and response decisions, response implementation, and post-construction. Although many pilots encountered issues that required creative solutions, no failures among the pilots were reported. More to the point, the pilots include many clear successes in fostering new and enhanced roles for the States and Tribes in the Superfund program.

Worthy of note are some weaknesses inherent in this pilot process. Among these are several preliminary pilot proposals that never reached the stage of formal proposal/approval. In some cases, EPA’s approach to pilot testing of the *Plan* did not readily accommodate the full range of State/tribal interests for new/revised roles in the Superfund program. Also, the Agency had hoped to grandfather in the State of Texas’ participation in a pilot to conduct a State-lead, Time-Critical Removal action. However, because it was initiated early the Texas pilot did not closely follow the methodology articulated in the *Plan*. A separate evaluation of that pilot is available.

From the pilot implementation experiences, the following recommendations are offered for senior management consideration:

- 1. Do not amend the *Plan*. All major issues that arose in the pilots are addressed in the *Plan*. In evaluating the issues, the need for better communications of the key elements of the *Plan***

for future use is clear. Any future directives or guidance materials on enhancing the role of States and Tribes should refer to the *Plan* and find effective ways to highlight its key points. These could focus especially on areas of confusion that arose during pilot implementation.

2. Headquarters should encourage Regions to use the *Plan* when considering new or significantly revised State and tribal roles. The *Plan* will help to encourage a level playing field for consideration of requests by States and Tribes for new/enhanced roles in the Superfund program. The *Plan* also encourages forward planning and a systematic/objective methodology to enhance State and tribal involvement in the Superfund process, and it can help foster more efficient working arrangements, especially as State, tribal, and Federal resources become more restricted.

Regions do not need and are not expected to apply the *Plan* retroactively, or in cases where the State or Tribe is seeking a role that is an incremental enhancement over past activities. However, there is a need for Headquarters to provide Regions, States and Tribes with a better understanding of the *Plan* through new education and outreach efforts.

3. Work to ensure changes in key personnel are fully integrated with the State/tribal Partnerships. Some pilot projects encountered significant delays/problems which were due to the departure of key State staff involved in initial pilot development/approval. Personnel changes in either agency, at the staff or management level, should prompt a review of the status and planned next steps for ongoing State/tribal partnership efforts. Because of the sensitivity of inter-governmental relations, ensuring personnel changes do not result in unmet expectations is important. More generally, when serious issues/disagreements arise in EPA - State/tribal partnerships, the parties should promptly get involved, often at a management level, to foster issue resolution. Similarly, when management changes occur in a program, the new official should be briefed on the readiness assessment (baseline) and the EPA-State/tribal partnership in Superfund. The official should be offered the opportunity to review this baseline and update the presumptions and future direction of the program.
4. The Office of Emergency and Remedial Response (OERR) should develop and implement an information-sharing and monitoring process lead by the State, tribal and Site Identification Center. OERR should put in place a systematic process to monitor the status of States and Tribes who are undertaking new Superfund activities. This process would ensure there is an accurate National understanding of the State and tribal involvement in the Superfund program, and facilitate information sharing about State/tribal involvement activities. Information sharing will foster Headquarters' and other Region's awareness of new State and tribal involvement, and facilitate collaborative solutions to issues that arise. To address the limited understanding of the *Plan*, OERR should develop and implement more effective means of communication with Regions, States and Tribes.

Future applications of *the Plan* should encompass all State/tribal role initiatives within this new information-sharing and monitoring process. The new State/tribal involvement team/network should:

- **Examine areas cited in the “Other Initiatives Matrix,” such as State remedy selection and deferral.**
 - **Followup on areas identified in the 4Q report as candidates for applying the *Plan* (e.g., PA/SI).**
 - **Tie future work associated with these individual initiatives to the *Plan’s* systematic, objective approach.**
 - **Continue to monitor progress with incomplete pilots at a reduced level of effort to ensure lessons learned are communicated, and there is support for the continuation of pilots that should become standard practices.**
- 5. EPA should retain strong Federal Superfund Program. Many pilots were successful because of the ability of the Federal Superfund program to provide enforcement support to State and tribal programs, in addition to the technical and financial support noted earlier. Future efforts to enhance the role of States and Tribes will be most successful if the Federal program remains strong in each of these areas.**

STATE AND TRIBAL ENHANCED ROLE INITIATIVE

~ PILOTS SUMMARY TABLE ~

(as of September 21, 2000)

PILOT	SUPERFUND ACTIVITY	STATUS	RA*	MA*	F/T*	Tribal
Region 1						
Connecticut	Conduct State-lead enforcement action at a National Priorities List (NPL) site.	CT will continue the State-lead enforcement action at an NPL site. Region I will provide a support role and will review appropriate documents (.e.g., ROD) as laid out in the enforcement agreement Region I and CT signed.	U	U		
Aroostook Band of Micmac and Passamaquoddy Tribes	Obtain training to build capacity to conduct operation and maintenance activities.	Awarded CA to Aroostook and Passamaquoddy Tribes, and conducted training. Found recommendations in plan useful to determine tribal interest in SF.			U	U

* RA (Readiness Assessment); MA (Model Agreement); F/T (Financial/Technical Assistance); Tribal (Tribal Pilot)

PILOT	SUPERFUND ACTIVITY	STATUS	RA*	MA*	F/T*	Tribal
Region 2						
New York	Expand implementation of response activities at eight sub-sites of the Onondaga Lake NPL site.	Investigation and cleanup work continues at the “subsites.”	U		U	
Region 3						
Delaware	Conduct State-lead site assessments.	Subpart O regulations revisions will include permitting State to amend the list of sites to be assessed in its cooperative agreement without prior EPA approval. This will institutionalize the process tested in the Delaware pilot.	U	U		
Region 4						
South Carolina	Identify and screen potential Superfund sites. Defer NPL site for State oversight of PRP-lead cleanup.	13 sites have completed pre-CERCLIS screening.. Formal deferral occurred August 1999. State issued AOC to PRPs June 2000. EPA and State consider pilot to be complete and activities are now a part of normal operations.	U	U	U	

* RA (Readiness Assessment); MA (Model Agreement); F/T (Financial/Technical Assistance); Tribal (Tribal Pilot)

PILOT	SUPERFUND ACTIVITY	STATUS	RA*	MA*	F/T*	Tribal
Mississippi Band of Choctaw Indians	Develop emergency preparedness and response capabilities.	Tribe received training in Hazardous Materials Response courses (including 1 st Responder hands-on training).			U	U
Region 5						
Leech Lake Band of MN Chippewa Indians	Develop risk assessment exposure factors, scenarios sensitive to tribal resource use, and address cultural concerns at St. Regis/Champion NPL site.	Awarded Pilot Support Agency Cooperative Agreement. Ran into barriers in developing model agreement; will develop an agreement under a task in the recently awarded SACA. Pilot will include additional sampling and analysis of fish based on subsistence consumption rates.		U	U	U

* RA (Readiness Assessment); MA (Model Agreement); F/T (Financial/Technical Assistance); Tribal (Tribal Pilot)

PILOT	SUPERFUND ACTIVITY	STATUS	RA*	MA*	F/T*	Tribal
Region 6						
Texas	Conduct time-critical removals under separate pilot program sponsored by EPA and ASTSWMO..	Time critical removal evaluation report addresses the readiness assessment module components. Formal readiness assessment (after the fact) was inappropriate when EPA determined there would be no future funding of State time critical removal actions at this time.	U			
Inter-Tribal Environmental Council and Quapaw Tribe	Conduct a Remedial Investigation/Feasibility Study at abandoned industrial areas at the Tar Creek Superfund site.	The Quality Assurance Project Plan has been approved by EPA. ITEC and the Quapaw Tribe are meeting to determine the appropriate roles of each during the pilot. ITEC expects to begin sampling the Cardin areas the third week in October, 2000.			U	U

* RA (Readiness Assessment); MA (Model Agreement); F/T (Financial/Technical Assistance); Tribal (Tribal Pilot)

PILOT	SUPERFUND ACTIVITY	STATUS	RA*	MA*	F/T*	Tribal
Pueblo Office of Environmental Protection	Create tribal model to prioritize Superfund sites by incorporating tribal cultural values. Such recommendations will be used by EPA to evaluate the Hazard Ranking System.	The 19 Pueblo Governors of the All Indian Pueblo Council passed a resolution to support the pilot. POEP holding a Pilot workshop in Aug.2000 with Pueblo Tribes, HQ and Regional EPA Superfund programs to discuss detailed approach. HRS Training scheduled in Albuquerque this fall.			U	U
Pueblo Office of Environmental Protection	Develop training for bioremediation at dip vat sites.	Successfully bioremediated Laahty Dip Vat Site and continue to develop and refine dip vat training module. Initiated second dip vat cleanup this month. Presented pilot results at two national meetings.			U	U

* RA (Readiness Assessment); MA (Model Agreement); F/T (Financial/Technical Assistance); Tribal (Tribal Pilot)

PILOT	SUPERFUND ACTIVITY	STATUS	RA*	MA*	F/T*	Tribal
Pueblo Office of Environmental Protection	Establish emergency response procedures on tribal lands.	Activities include the purchase and assimilation of informational materials regarding the Emergency Planning and Community Right to Know Act, and the hiring of an Environmental Specialist (Pilot Manager).			U	U
Region 7						
Kansas	Conduct evaluation of sites passing through the integrated site assessment program to determine which sites could potentially warrant a non-time critical removal action.	KS will continue evaluation of a site to determine if a non-time critical removal action is warranted	U	U	U	
Region 8						
Utah	Conduct capacity building for the removal program.	Utah has received training and participated in several removals in FY 2000 and has requested continued funding for this activity.	U	U	U	

* RA (Readiness Assessment); MA (Model Agreement); F/T (Financial/Technical Assistance); Tribal (Tribal Pilot)

PILOT	SUPERFUND ACTIVITY	STATUS	RA*	MA*	F/T*	Tribal
Cheyenne River Sioux Tribe	Build tribal capacity to conduct field studies and establish procedures for close cooperation with EPA in the Superfund process.	The Tribe and EPA plan to conduct an ecological and human health risk assessment. Difficulty in finalizing agreement: parties decided an MOA is unenforceable, so moved tasks and responsibilities into an approved CA.		U	U	U
Region 9						
Hawaii	Enhance cooperation and coordination with the region in identifying and addressing hazardous waste sites.	Readiness assessment completed in conjunction with the State, and model agreement developed and pending State signature.	U	U		
Region 10						
Alaska Inter-Tribal Council	Train Alaskan Tribes on specific parts of the Superfund program.	Awarded a CERCLA §311(b) grant to non-profit intertribal consortium. The agreement is nearing completion. AITC is working closely with EPA to establish a training schedule.		U	U	U

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