



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

Signed January 17, 2001

OSWER No. 9375.3-06P

MEMORANDUM

SUBJECT: Enhancing State and Tribal Role Directive

FROM: Elaine F. Davies, Acting Director *s/Elaine F. Davies*
Office of Emergency and Remedial Response

Barry N. Breen, Director *s/Barry N. Breen*
Office of Site Remediation Enforcement

TO: Addressees

PURPOSE

The purpose of this directive is to communicate Headquarters (HQ) expectations for use of the “Plan to Enhance the Role of States and Tribes in the Superfund Program” (the Plan) when sharing work in the Superfund program. The customized approach described in the Plan has been tested through 17 pilot projects. This directive also initiates a process to improve communications related to State/Tribal issues between EPA Regional and HQ staff.

BACKGROUND

Between late 1996 and early 1998, a workgroup of State, Tribal, Regional, and HQ personnel developed the Plan through a consensus-based process. It was then approved by EPA and released in March 1998. The Plan envisions increasing complementary roles of the States and Tribes in the federal Superfund program, and presents an objective process that can be customized to meet the identified needs of individual States or Tribes. This process serves to bring EPA, States, and Tribes together at the table to accomplish this goal.

In 1998, EPA HQ initiated pilot projects within each Region in order to evaluate the Plan. Eight State

and nine Tribal pilot projects were implemented; they dealt with all areas of the Superfund pipeline and provided an excellent means of evaluating the Plan. Although most pilots are ongoing, several conclusions can be drawn:

- The Plan works within the current statutory structure;
- All major issues that arose in the pilots were addressed by the Plan, and there is no need to amend it;
- The Plan can be implemented in States with existing programs within regional budget allocations. However, States and Tribes who wish to develop new capabilities will most likely request increased resources, which at present are seriously constrained.
- Relationships between EPA and the State and Tribe were improved by using the Plan, even where the relationship was strong to begin with.
- States and Tribes needed, wanted or relied upon federal enforcement to implement the pilots;
- Clear written delineation of roles and responsibilities proved invaluable, even where there was a long-term, existing relationship;

A final evaluation report outlining lessons learned from piloting the Plan is being transmitted with this directive (see attachment).

RECOMMENDATIONS

Based on the evaluation report, we are asking that:

- When a State or Tribe has a desire to take on a new or significantly increased role in the Superfund program, Regions apply the Plan as a tool to achieve an appropriate Superfund work sharing arrangement with the State or Tribe. The Plan will assist in managing a workload that exceeds available resources, while maximizing the results of combined federal, State and Tribal resources.
- Headquarters and Regions develop an information-sharing network that fosters cooperation, communication, and mutual trust among States, Tribes, and EPA regions and HQ, and helps relate the Plan to other similar initiatives.
- Regions help us use the budget formulation process and other resource management processes to identify any increased funding and technical resource needs to allow continued growth of State and Tribal participation in the Superfund program, and to compare those needs to other program needs.
- Regions continue to maintain a strong federal presence, which is frequently supported by States and Tribes for successful Plan implementation.

IMPLEMENTATION

Regional Action Items - The following are designed to increase complementary State and Tribal roles in

Superfund and ensure use of the Plan in appropriate situations. Regions should:

1. Use appropriate aspects of the Plan to customize working arrangements when the State/Tribe takes on a new or significantly different role in the program. The Plan may also be of assistance to confirm or amend working arrangements when there is an important change in key personnel, policy direction or statutory authority, or resources available to the State, Tribe, or EPA.
2. Identify the regional manager(s) responsible for State and/or Tribal role program issues who will serve as primary point of contact with HQ on role working arrangements. The name, phone number, email and regular mail addresses, and fax number should be forwarded to HQ.
3. Provide HQ with information on current or anticipated requests from States and Tribes for a new or significantly revised role in the assessment or remediation of sites. This information should be provided along with the point of contact.
4. Participate in information-sharing and issue resolution forums with HQ and other regional staff.

HQ Responsibilities - The State, Tribal and Site Identification (ST/SI) Center of OERR will lead a national information-sharing network to promote effective use of the Plan. The ST/SI Center will:

1. Create a management level information-sharing network between HQ and Regions for information on State or Tribal involvement. This network will establish a routine method of sharing information, including periodic conference calls and other communications between HQ and Regions to share innovative/important ideas and activities across the Regions. We will follow up with details on the first call.
2. Work with Regions both to strengthen understanding of the Plan as they and the States and Tribes consider its use and request input on how to proceed, and to ensure that issues are dealt with expeditiously.
3. Take a leadership role in working with Regions to resolve issues which have national consistency implications, such as consideration of Tribal cultural values in Superfund decisions and consolidated (block) cooperative agreement funding.
4. Participate in national forums such as the Superfund Policy Forum, Focus Forum, ASTSWMO national meetings, and TASWER meetings to encourage appropriate use of the Plan.
5. Work as an advocate to meet any increased resources appropriately needed to support development of new Superfund capabilities among interested States and Tribes. This is especially critical to the continued growth of Tribal participation.

For more details or to discuss any questions or concerns about this directive, please contact Dave Evans at (703) 603-8885. The first conference call will discuss plans for State and Tribal coordination.

Attachment

Addressees:

National Superfund Policy Managers, Regions 1 - 10

Regional Counsels, Regions 1 - 10

Superfund Branch Chiefs, Regions 1 -10

OERR and OSRE Managers

cc: Tom Kennedy, ASTSWMO Executive Director

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