

APPENDIX J

MEMORANDUM OF UNDERSTANDING BETWEEN EPA AND AGENCY FOR
TOXIC SUBSTANCES AND DISEASE REGISTRY



**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY
AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

April 2, 1985

1. PURPOSE

The Agency for Toxic Substances and Disease Registry (ATSDR) and the Environmental Protection Agency (EPA) agree that guidance is required to define and coordinate joint and respective responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act (Public Law 96-510, 94 Stat. 2796, 42 USC 9601 et seq; CERCLA), Executive Order 12316 (Responses to Environmental Damage), and the National Oil and Hazardous Substances Contingency Plan (NCP; 40 CFR Part 300). This Memorandum of Understanding (MOU) establishes policies and procedures for conducting response and non-response health activities related to releases of hazardous substances.

2. AUTHORITY

CERCLA Section 104 authorizes the President to respond to releases or substantial threats of releases into the environment of hazardous substances and certain releases of pollutants or contaminants. CERCLA also establishes the Hazardous Substance Response Trust Fund. CERCLA section 104(i) authorizes ATSDR (part of the Department of Health and Human Services (HHS)) to effectuate and implement specific health-related activities with the cooperation of EPA and other agencies. Executive Order 12316 further delegates to the Secretary of HHS certain investigatory authorities vested in the President under CERCLA section 104 for conducting activities with the cooperation of other agencies, relating to illness, disease or complaints thereof. Executive Order 12316 delegates to EPA the primary response authority under CERCLA section 104 relating to release or extent of release of hazardous substances, pollutants, or contaminants, and determination of the presence of an imminent and substantial danger to the public health or welfare or the environment. Exceptions to this authority include responses to releases from Department of Defense (DOD) facilities or vessels (delegated to DOD) and releases involving the coastal zone, Great Lakes waters, ports, and harbors (delegated to the U.S. Coast Guard).



3. SCOPE OF RESPONSIBILITIES

This MOU covers the coordination of health-related activities by ATSDR and EPA as authorized by CERCLA and delegated by Executive Order 12316. ATSDR has statutory responsibilities under CERCLA and Executive Order 12316 for activities related to illness, disease, or complaints thereof, for disease registries and other responsibilities related to response actions. EPA has statutory authority under CERCLA and Executive Order 12316 for activities related to release or threat of release of hazardous substances, pollutants, or contaminants, and for determination of the extent of danger to public health, welfare, or the environment, as well as other responsibilities related to response actions.

ATSDR and EPA will carry out their responsibilities according to CERCLA, Executive Order 12316, the NCP, and this MOU. ATSDR's major responsibility will be the evaluation of populations with current or potential exposure to waste sites, development of health advisories, and the follow up on populations for the evaluation of future health effects. EPA's major responsibility in the health area will be risk assessment and risk management as defined herein. Health advisories will be based on ATSDR's evaluations of current health effects and will adapt EPA's risk assessments at a site or sites. ATSDR will not perform risk assessments as defined herein, using the funds made available from the Hazardous Substances Response Trust Fund. If risk assessments are not available, ATSDR will consult EPA on a case-by-case basis. ATSDR will conduct some of its activities through interagency agreements with other participating agencies of the Public Health Service through cooperative agreements with State health departments, and through contractual arrangements whenever appropriate. Such interagency agreements include those with the Centers for Disease Control to conduct health studies and conduct research and provide assistance on worker health and safety issues; with the Library of Medicine to establish and maintain the needed data bases on health effects of toxic substances; and with the National Toxicology Program to conduct standard toxicological assays.

Definitions for the key terms used in this section follow:

- o Health Consultation: Immediate or short-term consultation by ATSDR to provide health advice and/or health effects information regarding a specific site.
- o Health Assessment: Initial multi-disciplinary reviews by ATSDR of all readily available data to evaluate



the nature and magnitude of any threat to human health at a site. These evaluations will adapt EPA's risk assessment for the characterization of potential health threats at a site or sites, and may include literature searches, information summarization and evaluation of existing environmental data, pilot samples, testing for food chain contamination, and similar activities.

- o Public Health Advisory: An advisory issued by ATSDR based on the results of its health assessment.
- o Epidemiologic Studies: Long-term epidemiologic study by ATSDR involving a comprehensive protocol designed to add knowledge of the health effects of a specific substance or substances at a site or sites.
- o Health Registry: A site-specific or adverse health effects-specific registry established and maintained to track specific diseases and illnesses and long-term health effects to persons exposed to toxic substances.
- o Pilot Study: A preliminary or short term medical, laboratory, or epidemiologic study on a limited human population to decide if additional, large scale studies are warranted. The study populations can include those living at, or near, a site and those not residing at, or near, a site (control or reference population).
- o Risk Assessment: A qualitative/quantitative process conducted by EPA to characterize the nature and magnitude of potential risks to public health from exposure to hazardous substances, pollutants or contaminants released from specific sites. This process consists of hazard identification, dose-response assessment, exposure assessment, and risk characterization and supports EPA's risk management process.
- o Risk Management: The process conducted by EPA to determine the nature and extent of remedy for a site, including alternative selection.

A. Removal Actions

Removal actions are Superfund response activities involving the short-term cleanup or removal of released hazardous substances that pose an immediate hazard. These actions generally are limited by CERCLA to \$1 million in cost and six months in duration.



ATSDR activities in support of specific removal actions involve health consultations and health advisories. In addition, ATSDR may monitor the health of residents who have been exposed to the hazardous substances or who live near the release site. ATSDR may also provide technical assistance to EPA on matters of worker health and safety during the removal, and may provide community relations assistance to EPA. ATSDR may become involved in removal actions through a variety of mechanisms and at various stages of a removal action. The On-Scene Coordinator (OSC) shall recommend that ATSDR be called in at any time during the removal action, at the time that the criteria under Section B.3 are met, unless in the OSC's opinion there is no need for further public health input into the removal action. Alternatively, the recommendation for ATSDR involvement may be initiated by ATSDR itself, the State, or the EPA Regional Administrator.

B. Remedial Response

Remedial actions are those response actions consistent with a permanent remedy at a site. Remedial action is preceded by detailed planning. This section discusses coordination of ATSDR and EPA efforts during the remedial response process, which involves the five major stages:

- o Site discovery, preliminary assessment, and site inspections;
- o Site ranking and NPL listing;
- o Remedial investigation (RI);
- o Feasibility study (FS); and
- o Remedial design and construction.

The roles of ATSDR and EPA during these stages are discussed in the subsections below.

B.1 Site Discovery, Preliminary Assessment, and Site Inspection

There are different methods for identifying sites for potential remedial response under the Superfund program. CERCLA section 103 requires certain parties to notify the National Response Center when they have knowledge of a release of a hazardous substance equal to or in excess of the reportable quantity for that substance. Notification is forwarded to EPA and the affected State. In addition to this formal notification process, EPA may receive notification of a potential or actual release from a local, State, or Federal agency that discovers the release in the performance of its responsibilities. Following notification of a potential or actual release, EPA conducts a preliminary assessment of the site to determine whether further investigation and Hazard Ranking System (HRS) scoring is warranted.

Site discovery, preliminary assessment, and site inspection are primarily the responsibility of EPA. If ATSDR discovers a potential or actual release during the performance of its responsibilities, ATSDR will notify EPA of this release. EPA may perform preliminary assessments and site inspections of such releases, as warranted, and will determine whether further investigation is necessary.

B.2 Site Ranking and NPL Listing

CERCLA section 105(8) requires the President to develop criteria for determining priorities among releases or threatened releases of hazardous substances and, based upon those criteria, publish and amend the NPL. Executive Order 12316, section 1(c) delegates to EPA "[t]he responsibility for...all of the...functions vested in section 105" of CERCLA.

Decisions regarding specific site scoring and listing of sites on the NPL are the responsibility of EPA. If ATSDR discovers any information about potential candidates for the NPL during the performance of its responsibilities, ATSDR will submit that information to EPA. To facilitate this, EPA headquarters will notify ATSDR prior to each amendment of the NPL to allow ATSDR to recommend sites to be considered for the NPL, and EPA will consider such recommendations, based upon the data used by ATSDR to make the recommendation, before publishing the amended NPL. EPA may decide to rank sites identified by ATSDR, retain the site information on EPA files for future reference, or seek further information about such sites, and will notify ATSDR of its decision.

B.3 Remedial Investigation

CERCLA section 104(b) authorizes the President to undertake "such investigations, monitoring, surveys, testing, and other information gathering" necessary to "identify the existence and extent of the release or threat thereof, the source and nature of hazardous substances, pollutants or contaminants involved, and the extent of danger to public health or welfare or the environment." Section 2(a) of Executive Order 12316 delegates to the Secretary of HHS in cooperation with other agencies, those functions of Section 104(b) "relating to illness, disease, or complaints thereof." HHS's responsibilities are performed by ATSDR. Section 2(e) delegates to EPA most of the remaining authorities under section 104, including those functions under section 104(b) listed above as they related to the occurrence or potential occurrence of a release.

The EPA Regional Administrator, or his designee, will determine as early as possible in the RI/FS process for a site whether concurrent ATSDR involvement in the RI/FS is



necessary. In deciding whether to request concurrent ATSDR involvement, the Regional Administrator, or his designee, will consider the following criteria:

- o Whether the presence of toxic substances has been confirmed at the site;
- o Whether pathways of human exposure to toxic substances have been demonstrated to exist at the site, especially if such pathways involve direct contact with toxic substances; and
- o Whether a human population has been exposed to toxic substances via the identified pathways, and whether there exists a threat of current or future health effects to the population being so exposed, after considering EPA's risk assessments or health effects information from other sources.

If these criteria are met, the EPA Regional Administrator, or his designee, shall request concurrent ATSDR involvement, unless in his opinion there is no need for further public health input into the RI/FS. Alternatively, the recommendation for ATSDR involvement may be initiated by ATSDR itself, or the State.

Elements of the remedial investigation in which ATSDR participates may include review of site sampling plans and analysis protocols, site sampling, data analysis and interpretation, worker health and safety, community relations, and the remedial investigation report. The division of responsibilities and coordination between EPA and ATSDR in conducting these activities is described in the following paragraphs. EPA and ATSDR will agree to strict time schedules on a site-specific basis for all activities to be performed by ATSDR, to ensure that the response process is not delayed. Any changes in the time schedule will be mutually agreed upon by EPA and ATSDR.

Site Sampling. Where EPA has requested concurrent ATSDR involvement, ATSDR will advise EPA during the preparation of sampling and analysis protocols to ensure collection of data useful to ATSDR for health assessments and epidemiological studies. EPA will be responsible for the development and conduct of any environmental and biological (other than human) sampling, and developing the tests therefor. ATSDR will consult with appropriate health agencies and will summarize recommendations regarding the necessity for testing of human subjects. If human subject testing is determined to be necessary, ATSDR will be responsible for any such testing. EPA shall review the protocols or sampling plans for such testing to ensure collection of data useful to EPA in performing subsequent risk assessment and risk management.

Sampling Protocol. Where EPA has requested concurrent ATSDR involvement, EPA and ATSDR will submit a draft of all protocols to each other for review prior to institution of any site sampling or monitoring. Any changes in the sampling protocols will also be provided to ATSDR for review. With regard to the review of non-site specific protocols, (e.g., protocols for standard Contract Laboratory Program analysis) EPA will provide these to ATSDR for review as early as possible to avoid the necessity of ATSDR review of these protocols on a site specific basis.

Data Analysis and Interpretation. At sites where EPA has requested concurrent ATSDR involvement, EPA will provide its data from environmental, toxicological and other biological sampling and testing to ATSDR. ATSDR will review all available data for a site, including EPA's hazard identification, dose-response assessment, exposure assessment, and risk characterization information, drawing conclusions about any threats to public health associated with the site. Based on its interpretation of the site data, ATSDR will characterize the health threats based on its evaluation of current health effects and in consultation with EPA concerning the magnitude and timing of potential future health effects. ATSDR will communicate all health concerns to regional EPA staff and will provide copies of health assessments and advisories to EPA.

Worker Health and Safety. EPA may request assistance from ATSDR on worker health and safety issues during a remedial investigation, including consultation on the design of worker health and safety plans and monitoring of plan implementation. ATSDR will make arrangements for laboratory and field testing related to worker health and safety and worker surveillance.

Community Relations. ATSDR may provide, at EPA's request, assistance in conducting community relations activities during the remedial investigation. Such assistance may include:

- o Preparation of technical and non-technical information material for the public describing human health threats posed by substances at a site;
- o Reviewing and commenting on human health-related documents prepared and submitted by citizens (e.g., citizen-generated health survey protocols);
- o Participation in public meetings, small group meetings, and workshops; and
- o Preparing responses to specific public inquiries regarding human health impacts of site problems.



Remedial Investigation Report. At the conclusion of the remedial investigation at sites where ATSDR is involved, EPA will send a copy of the remedial investigation report to ATSDR. ATSDR will review health-related data and interpretations of such data in the report and provide comments to EPA within a mutually agreed upon time frame.

If EPA and ATSDR agree that ATSDR involvement is not required at a site, ATSDR will not participate in the remedial planning process at that site. ATSDR may undertake other statutory activities, such as epidemiological studies or disease registries, at a site or sites. ATSDR will coordinate all such activities with EPA and will advise EPA of imminent threats to human health at any site and at any time during EPA's remedial process. In addition, EPA may request ATSDR assistance in disseminating health information to the public and in responding to health concerns of local citizens.

B.4 Feasibility Study

EPA has the final authority for determining the extent of remedy at a site and selecting a specific remedy during the feasibility study. In conducting feasibility studies, EPA will develop, evaluate, and select remedial options using the approach described in its feasibility study guidance. For those sites where there has been concurrent ATSDR involvement, EPA staff will consult ATSDR for its assessment of any human health data (e.g., clinical, epidemiologic) and EPA's risk assessment resulting from the remedial investigation. EPA will be responsible for performing qualitative/quantitative risk assessments evaluating long-term risks to the public that may result from exposure to hazardous substances from Superfund sites.

It is the responsibility of EPA (Office of Solid Waste and Emergency Response) to incorporate the results of the risk assessment process and of health assessments by ATSDR into risk management determinations of the extent of remedy for a site. The goal of this process is to ensure that the remedial action is adequate with regard to eliminating or mitigating the existing and future public health threats. EPA may consider and incorporate applicable information provided by ATSDR on the current status of public health at the site into the selection of the preferred remedy. At the discretion of the appropriate Regional Administrator, EPA staff may also consult with ATSDR staff for any interpretation of human health data at sites where ATSDR is not concurrently involved. In addition, EPA may request ATSDR assistance at any site in disseminating health information to the public and in responding to health concerns of local citizens. In the course of performing its health activities, should ATSDR discover any site which, in its opinion, poses

APPENDIX K

**DRAFT MEMORANDUM OF UNDERSTANDING BETWEEN EPA AND THE FEDERAL
EMERGENCY MANAGEMENT AGENCY**

***** DRAFT *****

A FINAL VERSION WILL BE FORWARDED WHEN AVAILABLE





an imminent threat to public health, ATSDR will immediately notify the relevant EPA Regional Office and EPA Headquarters of this finding.

For each remedial response site where ATSDR involvement is requested, EPA will provide ATSDR with a copy of the draft feasibility study, and where appropriate with rough draft sections of the feasibility study relating to human health and interpretation, prior to the public comment period if possible. ATSDR will review the interpretation of the human health data in the draft feasibility study and provide comments to EPA during the public comment period. ATSDR will also provide to EPA any health information it possesses on the site during the public comment period.

B.5 Remedial Design and Construction

The design and construction of the selected remedy at Superfund sites is EPA's responsibility. The Regional Administrator may, at his discretion, request a health assessment from ATSDR with regard to certain elements of the remedial design. At the conclusion of the design stage, EPA should provide advance copies of the Remedial Design and Construction Plans to ATSDR whenever possible if they wish review and comment by ATSDR. ATSDR will notify EPA if the remedial design does not, in its opinion, eliminate or mitigate the public health threat.

C. Cost Recovery

Under CERCLA, EPA is authorized to recover from responsible parties all government costs incurred during a response action. ATSDR agrees to conform with all procedures and requirements for documenting costs that are to be recovered.

D. Funding

All costs incurred by ATSDR in performing its CERCLA responsibilities are funded by ATSDR through funds provided for this purpose. Funding for ATSDR activities performed under CERCLA is from the Hazardous Substances Response Trust Fund and is provided by EPA through the budget task force required by Section 7 of Executive Order 12316 or through separate interagency agreements for specific health studies. ATSDR will comply with the financial and reporting requirements outlined in the Interagency Agreements that transfer Fund monies to ATSDR.

4. PERIOD OF AGREEMENT

This Memorandum of Understanding will continue in effect until modified or amended by the assent of both parties or terminated by either party upon a thirty (30) day



advance written notice of the other party. Nothing in the Memorandum is intended to diminish or otherwise alter statutory authority of the agencies involved.

5. AMENDMENTS

This Memorandum may be amended at any time by the agreement of both parties. Each amendment must be in writing and signed by the appropriate ATSDR and EPA officials.

6. EFFECTIVE DATE

This Memorandum will become effective at noon on the date of the last signature below.

David R. Hays

Date: MAY 21 1988

For the Agency for Toxic
Substances and Disease
Registry

John W. Smith

Date: 4-25-88

For the United States
Environmental Protection
Agency



MEMORANDUM OF UNDERSTANDING
THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND THE
ENVIRONMENTAL PROTECTION AGENCY FOR THE IMPLEMENTATION
OF RELOCATION ACTIVITIES UNDER P.L. 96-510, THE
COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION,
AND LIABILITY ACT OF 1980 (CERCLA), AS AMENDED BY
P.L. 99-499, THE SUPERFUND AMENDMENTS AND REAUTHORIZATION
ACT OF 1986 (SARA)

1. PURPOSE

This Memorandum of Understanding (MOU) supersedes the MOU between the United States Environmental Protection Agency (EPA) and the Federal Emergency Management Agency (FEMA) of May 5, 1985 and any subsequent amendments. This MOU describes major responsibilities and outlines areas of mutual support and cooperation relating to relocation activities associated with response actions pursuant to CERCLA, as amended by SARA, Executive Order (E.O.) 12580, and the National Oil and Hazardous Substance Pollution Contingency Plan (NCP), 40 CFR Part 300.

Separate Interagency Agreements (IAGs) between EPA and FEMA will be developed to address both general and specific relocation activities. Such IAGs will be in conformance with the general policies, roles and responsibilities of each agency.

2. AUTHORITY

CERCLA, as amended by SARA, provides a comprehensive framework for response to the release or potential release of hazardous substances, pollutants, or contaminants which may present an imminent and substantial danger to the public health or welfare and the environment.

Executive Order 12580 delegates to the Director of FEMA the functions vested in the President by Sections 104(a) and the second sentence of 126(b) of the Act, to the extent they require permanent relocation of residents, businesses, and community facilities, or temporary evacuation and housing of threatened individuals not otherwise provided for. Executive Order 12580 also delegates to FEMA the functions vested in the President by CERCLA Section 101(24) to the extent SARA requires a determination by the President that temporary or permanent relocation should be undertaken as part of a remedial action. In addition, E.O. 12580 delegates to FEMA the functions vested in the President by sections 117(a) and (c), and 119 of SARA, to the extent such authority is needed to carry out the functions delegated to the Administrator by Sections 104(e)(7)(c), 113(k)(2), 119(c)(7), and 121(f)(1) of SARA. By agreement between EPA and FEMA, dated August 12, 1983, FEMA has redelegated to EPA this authority to make determinations on temporary or permanent



relocation as part of a remedial action. Similarly, by agreement between EPA and FEMA dated July 13, 1984, FEMA redelegated to EPA its authority to determine the need for temporary evacuation or housing as part of any removal action.

The NCP, in 40 CFR 300.33(b), provides that the On-Scene-Coordinator (OSC)/Remedial Project Manager (RPM) directs all Federal Fund-financed response efforts and coordinates all other Federal efforts at the scene of a discharge or release, subject to E.O. 12580. As stated above, E.O. 12580 delegates to the Director of FEMA the temporary and permanent relocation function, thus FEMA directs relocation activities. Section 300.33(b)(6) of the NCP requires the OSC/RPM to notify FEMA of situations which may also evaluate incoming information and immediately advise FEMA of potential major disaster situations under the "Disaster Relief Act of 1974" (P.L. 93-288).

Executive Order 12148 delegates to FEMA the President's authority to provide assistance under the Disaster Relief Act. FEMA designates the Federal Coordinating Officer to manage response to a major disaster or emergency. In such an event, the OSC/RPM coordinates response activities with the Federal Coordinating Officer. However, the OSC/RPM will still direct all Fund-financed response efforts, subject to E.O. 12580.

3. AGENCY RESPONSIBILITIES

3.1 EPA Responsibilities

EPA shall:

- Prepare all necessary environmental clearances including appropriate documentation to comply with the National Environmental Policy Act for relocation actions.
- Consult and coordinate with FEMA, as soon as possible (preferably 30 days in advance), when relocation is identified as an option at a site. See Attachments A and B for a sequence of events for permanent and temporary relocations.
- Determine in writing the need for temporary relocation as part of a removal, as well as a temporary or permanent relocation as part of a remedial response. In making such determinations, EPA will consult with the Centers for Disease Control (CDC) and appropriate State agencies regarding potential health risks which may affect the need for relocation. EPA will indicate the relocation boundaries and whether there is a need for FEMA to provide site security (temporary relocation only) and/or pay for decontamination or acquisition of personal property.



- . Provide for site security for vacant homes at sites where FEMA has not been requested to provide site security.
- . Dispose of all contaminated personal property acquired by FEMA.
- . Consult with FEMA on State commitments. EPA will not select permanent relocation as the cost-effective remedy until the State has provided EPA with written concurrence on the permanent relocation option and an acknowledgement of its responsibilities and commitments. EPA will make no public announcements concerning permanent relocation determinations until FEMA and the affected State have reached agreement in writing concerning respective roles and overall project management. FEMA will provide EPA with written concurrence on the permanent relocation option or advise EPA of any constraints regarding implementation of the relocation.
- . Provide non-site-specific funding to FEMA for tasks applying generally to CERCLA relocation activities (See section 7.1).
- . Provide site-specific funding to FEMA when relocation is selected as a removal or remedial option and will become part or all of a cleanup action. Mechanisms for providing site-specific funding are covered in Section 7.2 of this memorandum. EPA will make no public announcement concerning permanent relocation determinations until the EPA/FEMA site-specific Interagency Agreement is signed.
- . Assure that both EPA Headquarters and Regional Offices follow the sequence of events for a EPA/FEMA coordination for both temporary and permanent relocations as provided in Attachments A and B.
- . Take lead responsibility for developing and implementing a community relations plan for response action, as specified in the "Superfund Community Relations Policy" and "Community Relations in Superfund, A Handbook". EPA will consult and involve FEMA in developing and disseminating information related to the relocation as part of the community relations plan.
- . Cooperate and coordinate with FEMA in all efforts relating to any judicial action taken against potentially responsible parties for injunctive relief and cost recovery, including case initiation and prosecution and negotiation of settlements for any site which has had a temporary and/or permanent relocation. This shall include coordination in development and use of evidence and witnesses relating to property appraisals, title searches, property purchase negotiations, closing documentation, resident moving procedures and expenses, and resident relocation allowances and procedures.



- . - Provide FEMA with written notice of the verified amount of State credit, if FEMA notifies EPA that a State is claiming a credit under CERCLA Section 104(c)(3)(c), as amended by SARA Section 104(f), to be applied toward site-specific relocation activity. When FEMA notifies EPA in writing of the amount of credit to be applied toward the FEMA/State cost-share agreement, EPA will track total State credits applied to the site to ensure application of credits is properly documented. (For an explanation of claimed vs. verified State credits, see State Participation in the Superfund Program under "Documenting State Credits and Advance Match", Appendix C.)
- . Provide information on statutory credits available at sites to FEMA upon request.

3.2 FEMA Responsibilities

In the course of CERCLA response actions, FEMA is responsible for the permanent relocation of residents, businesses, and community facilities and/or temporary evacuation and housing of threatened individuals. FEMA shall:

- . Provide technical assistance to the OSC/RPM to support a determination of need for relocation, e.g., estimating the costs for relocation.
- . Establish policy, plans and other preparedness activities required to support relocation activities.
- . Implement temporary relocation, including negotiation of leases and rent reimbursements and provision of essential utility costs at the original residence and other miscellaneous relocation expenses.
- . Implement permanent relocation in accordance with P.L. 91-646, "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970".
- . Provide site security at sites involved with temporary relocation only, when requested by EPA.
- . Pay individuals for decontamination of household items and/or acquisition of contaminated personal property, when requested by EPA.
- . Support EPA in developing and carrying out community relations with regard to relocation activity.



- Coordinate with States to ensure appropriate involvement in relocation actions, including negotiation of contracts and Cooperative Agreements. Critical issues which must be resolved in writing prior to EPA's selection of permanent relocation as the cost-effective remedy include:

- (a) identification of State, and if required, Federal condemnation authorities for public health reasons. This would include commitments to condemn property as required during the project;
- (b) identification of the State agency which will take title and written commitments to take title at the time of closing, to all real property acquired;
- (c) identification of the lead for acquisition - FEMA or State; and,
- (d) obtaining commitments for the State cost share.

Once agreement has been reached on these issues, FEMA will provide EPA with written concurrence on the permanent relocation option. If agreement has not been reached on any of these issues, FEMA will advise EPA of any constraints regarding implementation of the relocation.

Failure to reach agreement on any one of these issues may mean that a relocation cannot be conducted and other alternatives to permanent relocation must be considered.

- Cooperate and coordinate with EPA in all efforts relating to any judicial action taken against potentially responsible parties for injunctive relief and cost recovery, including case initiation and prosecution and negotiation of settlements relative to any site for which there had been a temporary and/or permanent relocation. This shall include coordination in development and use of evidence and witnesses relating to property appraisals, title searches, property purchase negotiations, closing documentation, resident moving procedures and expenses, and resident relocation allowances and procedures. To the fullest extent of its ability, FEMA shall provide advance notice of property purchase negotiations and closings in its monthly reports to EPA.
- Request written notification from EPA of the amount of verified credit, if a State notifies FEMA of its intention to claim a credit under CERCLA Section 104(c)(3)(c), as amended by SARA



- Section 104(f), and apply it toward relocation activity. FEMA will then confirm to EPA in writing the amount of credit to be applied to the FEMA/State agreement in accordance with Section 104(c) of CERCLA, as amended by Section 104(h)(5) of SARA. (For an explanation of claimed vs. verified State credits, see State Participation in the Superfund Program under "Documenting State Credits and Advance Match", Appendix C.)

- . Assure that both FEMA Headquarters and Regional Offices will follow the sequence of events of EPA/FEMA coordination for both temporary and permanent relocations as provided in Attachments A and B.

4. COORDINATION ON SITE-SPECIFIC ISSUES

4.1 Temporary Relocation

Temporary relocation as part of a removal action or remedial action may be considered by EPA in cases such as the following:

- . Due to health hazards inherent at the site. Such hazards may involve an emergency such as an imminent threat of fire or explosion, or they may involve a threat to public health resulting from exposure to hazardous substances.
- . While specific clean-up actions are underway, to protect the population at or near the site from hazards that may be created by the disturbance resulting from such cleanup actions (e.g., air-borne contaminants or danger of explosions or fire).

See Attachment A for a sample sequence of events for EPA/FEMA coordination during a temporary relocation.

4.2 Permanent Relocation

Permanent relocation of residents, businesses, and community facilities may be provided where it is determined that, alone or in combination with other measures, such relocation is more cost-effective than, and environmentally preferable to, the transportation, storage, treatment, destruction, or secure disposition offsite of hazardous substances, or may otherwise be necessary to protect the public health or welfare.

See Attachment B for a sample sequence of events for EPA/FEMA coordination during a permanent relocation.

5. STATE IMPLEMENTATION OF RELOCATION ACTIVITIES

FEMA will consult with the State concerning its willingness and capability to administer temporary and permanent relocation activities. When FEMA and the State agree that the State will administer all or part



of the relocation activity at a site, FEMA will provide funding to the State for allowable costs and obtain cost-share commitments, as appropriate. The OSC/RPM will continue to consult with the FEMA Project Officer on all relocation matters unless the FEMA Project Officer identifies a State contact for certain issues.

6. INFORMATION DISSEMINATION

Depending on the type of response action, all public information activities will be coordinated with the appropriate lead agency official and the EPA Regional Public Affairs Officer or State Official (when specified in a State Cooperative Agreement). EPA and FEMA agree to make a joint public announcement when relocation activity is determined to be necessary. FEMA agrees to consult in advance with the appropriate public information officer on any planned public statements to provide information about relocation. EPA will make any statements on relocation in consultation with FEMA. The only exception to this provision is in the event of a national disaster or emergency under the "Disaster Relief Act of 1974," when the Federal Coordinating Officer coordinates public information activities.

EPA and FEMA also recognize the need for coordination in all Congressional activities. This includes notifying and coordinating with each other's Office of Congressional Liaison prior to Congressional contacts concerning sites where relocation activity is involved and concerning legislative issues of mutual interest.

7. FUNDING MECHANISMS, REPORTING AND DOCUMENTATION

7.1 Non-Site-Specific Interagency Agreements

EPA and FEMA Headquarters Offices will develop an Interagency Agreement (IAG) to provide funding to FEMA for tasks applying generally to CERCLA relocation activities, such as training of FEMA personnel involved in relocations and development of guidance on relocation activities. In limited circumstances, this type of IAG may also be used to fund site-specific activities occurring before a remedy or removal is selected, such as assistance in planning for a relocation or preparing a relocation option. Such expenditures shall be tracked on a site-specific basis.

7.2 Site-Specific Interagency Agreements

Temporary and permanent relocation actions will be funded through separate site-specific IAGs between EPA and FEMA. These IAGs shall reflect FEMA's estimated amount of expenditures for relocation activities. These site-specific IAGs may also include assistance to EPA in planning for a relocation or preparing a relocation option before a remedy or removal is selected. For IAGs covering remedial relocation activities, there shall be separate obligations under each IAG for planning and implementation tasks to clarify state cost-share requirements.



7.3 Financial Management and Reporting Requirements

As manager of the Hazardous Substances Superfund, EPA is required by statute or regulation to follow certain accounting and reporting procedures. Some of these procedures are unique to the Trust Fund. FEMA agrees to assist and comply with the following:

- . FEMA will provide EPA with information, as specified by EPA, to prepare annual operating plans, including estimated obligations by object class.
- . EPA will promptly inform FEMA of any applicable ceilings on obligations for administrative expenses and/or travel, and FEMA will comply with these ceilings.
- . As the agency receiving the transfer allocations, FEMA will submit the Report on Budget Execution Standard Form 133 (SF-133) to EPA within fifteen calendar days after the close of each calendar month. The SF-133 must reflect total obligational authority available.
- . FEMA will prepare a quarterly Standard Form (SF-225), "Report on Obligations," which reflects obligations to date, by object class. This report, which is required by the Department of the Treasury Fiscal Requirements Manual sub-section 4440.30b, indicates that the transfer allocation recipient is responsible for its preparation.
- . FEMA will prepare an annual Treasury Financial Statement 2108 (TFS-2108) year-end closing statement in accordance with Department of Treasury regulations.
- . OMB - Circular A-87 is applicable to any Cooperative Agreement issued by FEMA.
- . The SF-133, SF-225, and TFS-2108 reports should be sent to:

Financial Reports and Analysis Branch
Financial Management Division
U.S. Environmental Protection Agency
Room 3623M PM-226
401 M Street, S.W.
Washington, D.C. 20460

- . FEMA will submit monthly reports as specified in this section, as well as program status reports on relocation actions, on a site-specific basis, for all site-specific IAGs and activities.



Because all cash authority available under the Hazardous Substances Superfund is invested by the Department of the Treasury, EPA will prepare Standard Form 1151 non-expenditure transfer authorizations only to the extent needed to fund outlays. EPA will transfer funds quarterly, or more often if required, via SF-1151, based on estimated outlay plans prepared under specific Interagency Agreements. This arrangement will enable EPA to meet the requirements of the Department of the Treasury to divest only those monies required to meet necessary expenditures.

If actual costs are expected to exceed estimated expenditures, EPA will transfer additional funds as required. A revised outlay plan will serve as authority to transfer additional funds via SF-1151.

If actual outlays are significantly less than estimated in the outlay plan, EPA may postpone or reduce the next scheduled transfer or request the return of idle cash balances. FEMA will report closeouts of specific relocation actions and any unexpended balance. Based on these unexpended balances, EPA may postpone or reduce the next scheduled transfer or request the return of idle cash as appropriate.

Contacts within EPA and FEMA to ensure coordination in carrying out the "Financial Management and Reporting Requirements" section of this Agreement are:

Budget Formulation and
Control Branch Chief
U.S. Environmental
Protection Agency
Room W709B, PM-225
401 M Street, SW
Washington, D.C. 20460

Deputy Chief, Accounting
Office of the Comptroller
F E M A
500 C St., S.W., Room 719
Washington, D.C. 20460

7.4 Documentation and Cost Recovery

FEMA and EPA shall cooperate and coordinate in all efforts relating to any judicial action taken against responsible parties for injunctive relief and cost recovery, including case prosecution and negotiation of settlements relative to any site for which there has been a temporary and/or permanent relocation. This shall include coordination in development and use of evidence and witnesses relating to property appraisals, title searches, property purchase negotiations, closing documentation, resident moving procedures and expenses, and resident relocation allowances and procedures. To the full extent of its ability under its Cooperative Agreements and contracts with States and political subdivisions thereof, FEMA shall provide advance notice of property purchase negotiations and closings in its monthly reports to EPA.



EPA, acting as manager of The Hazardous Substances Superfund, requires current information on CERCLA response actions and related obligations of CERCLA funds for these actions. In addition, CERCLA authorizes EPA to recover from responsible parties all government costs incurred during a response action. To ensure successful recovery of CERCLA funds, FEMA shall maintain site-specific accounts and documentation. FEMA will organize and retain site-specific files for 10 years after the completion of the project or until transferred to EPA for permanent retention. These site-specific files will include documentation (e.g., vouchers, billing statements, evidence of payment, audit reports) of direct costs as follows:

- . FEMA employee hours and signed salary cost records (timesheets)
- . FEMA employee travel and per diem expenses (travel authorizations, reimbursement vouchers, and all appropriate hotel, car rental, etc., receipts)
- . Receipts for materials, equipment, and supplies
- . Contract costs (paid vouchers, treasury schedules and a copy of contract)
- . State Cooperative Agreement and contract costs (invoices, letters of credit, drawdown records, etc.)
- . Any other direct costs associated with relocation not included in the above categories.

The Cooperative Agreement entered into by FEMA and the State shall require the State to also maintain the above accounts and documentation.

For cost recovery actions, within three weeks from the date of a request from EPA or the Department of Justice (DOJ), FEMA will provide to EPA or DOJ site-specific costs and copies of the back-up documentation which support those costs. FEMA will provide EPA with a contact for obtaining such site-specific accounting information and documentation. This cost information and documentation must also be available for audit or verification upon request of the EPA Inspector General.

As original documents may be requested for cost recovery actions, FEMA will provide access to the original documentation when requested. FEMA will notify EPA in advance of placing any project files in storage or archives.

8. AMENDMENTS

This agreement may be amended at any time by mutual agreement of EPA and FEMA. Amendments must be in writing and must be signed by appropriate FEMA and EPA officials.



9. PERIOD OF AGREEMENT

This agreement will continue for a period of 4 years, subject to applicable law. This agreement may be terminated upon notification by either EPA or FEMA to the other party. A minimum of ninety days advance written notice of termination is required.

10. EFFECTIVE DATE

This agreement will become effective upon signature of both parties.

Associate Director
State and Local Programs
and Support
FEMA

Assistant Administrator
Office of Solid Waste and
Emergency Response
EPA

Date: _____

Date: _____

