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

MAR 22 2010

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

**MEMORANDUM**

**SUBJECT:** Policy on Siting Temporary Areas for Handling Contaminated Waste from Superfund Remedial Cleanups

**FROM:** James E. Woolford, Director
Office of Superfund Remediation and Technology Innovation

**TO:** Superfund National Policy Managers, Region 1 – 10

The purpose of this memorandum is to establish a policy on siting temporary areas for handling contaminated wastes from Superfund remedial cleanups.[1]

At times, Superfund Remedial Site Remedial Project Managers (RPMs) need to establish temporary areas to store contaminated wastes removed from a Superfund remedial site. When feasible, this will generally be part of the response selection process, but temporary off-site storage issues may also arise after selection of the remedial action. The RPMs or EPA contractors may generally consider areas in proximity to a Superfund remedial site when identifying potential waste handling areas that may serve to temporarily store or stage wastes.

Prior to exploring options, RPMs and EPA's contractors should be directed to avoid placing temporary waste storage areas near sensitive subpopulations (e.g., children, the elderly or immune compromised people) or near populations that may be already highly exposed to environmental contamination. Every effort should be taken to ensure the siting of temporary waste handling areas will not result in people being exposed to the contamination being remediated (e.g., such as from runoff, dust or trespassing.). Consequently, temporary waste handling areas should generally not be placed in close proximity to schools, daycare centers, nursing homes, rehabilitation centers, hospitals, or similar facilities where such sensitive

[1] It is important to note that this memorandum is not a regulation itself, nor does it change or substitute for any regulations. Thus, it does not impose legally binding requirements on EPA, States, or the regulated community. This memorandum does not confer legal rights or impose legal obligations upon any member of the public. Interested parties are free to raise questions and objections about the substance of this memorandum and the appropriateness of the application of this memorandum in a particular situation. EPA and other decision makers retain the discretion to adopt approaches on a case-by-case basis that differ from those described in this memorandum

subpopulations may reside or in areas where nearby populations are already highly exposed to environmental contamination.

Of course, when CERCLA wastes are sent off-site, the provisions of the off-site rule (See 40 C.F.R.§ 300.440) apply. The purpose of the off-site rule "is to avoid having CERCLA wastes from CERCLA-authorized or -funded response actions contribute to present or future environmental problems by directing these wastes to management units determined to be environmentally sound." (See 58 FR 49201, September 22, 1993).

Prior to a final selection of a location, Regions should consider factors such as the following:

- The applicability of the Off-Site Rule (40 C.F.R. § 300.440),
- The length of time needed for temporary use,
- What steps would be needed to prevent releases into the environment of the contaminated materials,
- Potential Applicable, Relevant and Appropriate Requirements, and
- Environmental Justice Concerns.

If the evaluation occurs as part of the remedy selection process, Regions should explain in the proposed plan the potential locations that may be considered and used to ensure meaningful public participation from potentially affected communities. Regions should carefully consider potential options consistent with the National Contingency Plan's nine criteria. Should the evaluation occur post-remedy selection, Regions should conduct outreach to the public, local governments, tribes, states, etc. to ensure the potential locations are fully vetted to ensure meaningful input and acceptance of the potential locations.

Headquarters will be sending model language for inclusion in your Remedial Action Contracts, Site Specific Contracts and for your work assignments through the US Army Corps of Engineers. We plan to send this new contract language by April 15, 2010. In the meantime, if you have any questions, please contact me or Elizabeth Southerland at 703-603-8855.

cc: Superfund Regional Branch Chiefs, Regions 1 – 10
Elizabeth Southerland, OSRTI
Robin Richardson, OSRTI
John Gherardini, OAM
Matt Hale, ORCR
Dana Tulis, OEM
John Reeder, FFRRO
Elliott Gilberg, OSRE
Peter Grevatt, OA