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

JAN 21 1991

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

OSWER Directive 9230.0-18

MEMORANDUM

SUBJECT: Incorporating Citizen Concerns into Superfund Decision-making (Superfund Management Review: Recommendation #43B)

FROM Henry L. Longest, II, Director
Office of Emergency and Remedial Response

TO: Director, Waste Management Division
Regions I, IV, V, VII, VIII
Director, Emergency and Remedial Response Division
Region II
Director, Hazardous Waste Management Division
Regions III, VI, IX
Director, Hazardous Waste Division
Region X

Community Relations Coordinators, Regions I - X

Purpose:

To ensure the incorporation of citizen concerns into Superfund site decision-making.

Background:

EPA's capacity and willingness to incorporate community concerns into site decision-making are among the most important measures of Superfund's community relations program. Although EPA has made significant progress in its promotion of mutually satisfactory two-way communication with the public, room for improvement exists in integrating the public's concerns into site decisions.

EPA has established methods for soliciting citizen concerns, but that represents only the first step. Citizens rightfully expect that EPA will then carefully consider and fairly evaluate the concerns the community has voiced, making it imperative that EPA pay close attention to such input. It is not enough that we

solicit and read public comments. It is important that we demonstrate to citizens that they are involved in the decision-making process.

The impacts of citizen input will be more obvious at some sites than at others, and will not always, of course, be the principal determinant in site decisions. EPA must make every effort, however, to fully incorporate those concerns into site decision-making. The Superfund Management Review (SMR) mentions four steps necessary to satisfactorily accomplish this: "...listen carefully to what citizens are saying; take the time necessary to deal with their concerns; change planned actions where citizen suggestions have merit; and explain to citizens what EPA has done and why." (p.5-7). The following recommendations discuss in detail each of these steps.

Implementation:

1) Listen carefully to what citizens are saying. Superfund managers and staff should listen carefully throughout the technical process to the concerns and comments of local communities. It is in the interest of Superfund to listen to what citizens are saying not only during the comment period after the Proposed Plan is issued, but during the entire process. Although some may see only the short term view that a community's involvement slows the decision-making process and causes costly delays, it has been EPA's experience that the long term success of the project is enhanced by involving the public early and often. Carefully considering citizen concerns before selection of a preferred remedy will lead to better decision-making.

Some Regions have successfully adopted innovative techniques for soliciting citizen input. These include community workgroups, open houses, and informal "roundtable" discussions. Regions are encouraged to try as many of these techniques as possible to communicate with citizens.

2) Take the time necessary to deal with citizens' concerns. Incorporating citizen concerns into site decisions need not be a cause for delay or, for that matter, excessive cost. By allocating sufficient resources to community relations and maintaining an awareness of citizen concerns throughout the process, Regions can successfully assimilate citizen concerns into site decisions.

The most effective way to provide time to deal with citizen concerns is by building a schedule at the outset that allows adequate time (and resources) for public involvement. Such

planning should include, among other things, the likelihood that commentors may request an extension of the public comment period following issuance of the Proposed Plan, as allowed by Section 300.425(f)(3)(i)(C) of the National Contingency Plan (NCP). In accordance with the SMR, site managers should announce a thirty-day comment period, but anticipate the possibility of a sixty-day period. Also, effective planning and early citizen involvement will allow site managers to anticipate those particularly controversial sites or proposed remedial actions which may warrant an additional extension of the comment period.

OSWER Directive #9230.0-08 of March 8, 1990, entitled "Planning for Sufficient Community Relations," provides additional guidance and instructs Regions to dedicate adequate resources to support additional community relations needs. The guidance included the SMR recommendation that Regions "...establish a discretionary fund that they could use to fund additional work necessary to respond to citizen concerns." (p.5-7).

3) Change planned actions where citizen suggestions have merit. It is crucial that EPA remain flexible, and willing to alter plans where a local community presents valid concerns. In recent years, EPA has demonstrated an increased willingness to change or significantly alter its preferred remedy. In some instances, citizen input has saved EPA from mistakes and unnecessary costs. It is obviously more cost effective to spend time, energy and money working with the public on a regular basis, than to deal with resistance created when a community believes it has been left out of the process.

With regard to changing planned actions, EPA's measure of success should not be whether or not the community applauds the remedy because EPA did what it asked, but whether or not EPA honestly listened to citizens, and genuinely took into account their concerns. EPA may remain unpersuaded after hearing from citizens, but it is EPA's responsibility to reinforce to citizens that their comments were carefully and thoughtfully considered.

4) Explain to citizens what EPA has done and why. Regardless of the outcome of site decisions, EPA must fully communicate those decisions to the public. The most thorough vehicle for such communication is the responsiveness summary. As recommended by the SMR, EPA has revised the format of responsiveness summaries to make them more easily understandable to citizens without compromising the legal and technical goals of the document. It is imperative that the public be able to see in writing EPA's response to their concerns and comments. As the

OSWER Directive #9230.0-18

SMR notes, "Whether EPA can do what citizens ask or not, we should always provide them a clear explanation of the basis for our decision." (p.5-7). The public needs clear, candid responses, rather than volumes of technical and legal jargon piling up evidence for why EPA's original decision was the only possible one.

Although the responsiveness summary represents the most visible and comprehensive vehicle for explaining EPA decisions to the public, it is only one component of a process. EPA should explain site decisions throughout the entire cleanup, rather than only at few key stages. That is, EPA must establish and maintain a dialogue through which we discuss site decisions as they develop, as well as make Superfund documents more available to the public throughout the cleanup process.

Conclusion:

Although Superfund has firmly established its ability to share information with, and receive it from, the public, the program nevertheless needs to better incorporate citizen concerns into site decisions. The recommendations outlined above will move Superfund closer to that goal. For more information regarding Community Relations in Superfund, contact Melissa Shapiro or Jeff Langholz of my staff at FTS 398-8340 or FTS 398-8341, respectively.