



U.S. ENVIRONMENTAL PROTECTION AGENCY

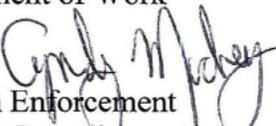


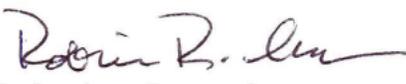
U.S. DEPARTMENT OF JUSTICE

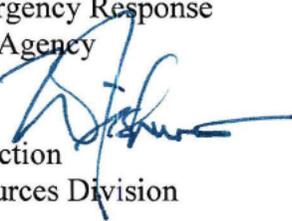
SEP 29, 2014

MEMORANDUM

SUBJECT: Issuance of 2014 CERCLA Model Remedial Design/Remedial Action Consent Decree and Statement of Work

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TO: Regional Counsel, Regions 1-10, U.S. Environmental Protection Agency
Superfund National Program Managers, Regions 1-10, U.S. Environmental Protection Agency
Deputy Chiefs, Assistant Chiefs, Environmental Enforcement Section, U.S. Department of Justice
Chief, Deputy Chief, Assistant Chiefs, Environmental Defense Section, U.S. Department of Justice

A. Introduction

The purpose of this memorandum is to issue the 2014 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Model Remedial Design/Remedial Action (RD/RA) Consent Decree ("2014 CD") and Model RD/RA Statement of Work ("2014 SOW"). This memorandum and its attachments are available on the U.S. Environmental Protection Agency's (EPA) website at <http://www2.epa.gov/enforcement/guidance-2014-cercla-rdra-cd-and-sow>. The two model documents are available in Word format from EPA's Cleanup Enforcement Model Language and Sample Documents Database at <http://cfpub.epa.gov/compliance/models/>.

The 2014 CD is an update of the model RD/RA CD issued on August 1, 2011 (“2011 CD”).¹ When the 2011 CD was issued, a model SOW did not exist. A work group, led by the EPA Office of Superfund Remediation and Technology Innovation (OSRTI), with representatives from the EPA Regions and Headquarters and the Department of Justice (DOJ), developed the 2014 SOW. Technical provisions previously contained in the 2011 CD were moved to the new SOW and, therefore, the Office of Site Remediation Enforcement (OSRE) and DOJ revised the CD to avoid duplicative provisions in the two documents. In addition, OSRE and DOJ 1) added a new Property Requirements section to the CD (Section VIII) that updates, combines, and replaces the 2011 CD’s Notice to Successors-in-Title and Transfers of Real Property (Paragraph 9) and Access and Institutional Controls (Section IX), and 2) substantively revised and renamed the Performance Guarantee provision (2011 CD Section XIII) in a new Section IX (Financial Assurance). These and various other changes that were made to the 2011 CD are summarized and explained in the attached “Overview of Substantive Changes from 2011-2014 Remedial Design/Remedial Action Consent Decree.” In addition, a compare version of the CD showing changes made from the 2011 to 2014 versions is also attached.

B. Effective Date/Contacts

The 2014 CD and SOW are effective upon the date of this memorandum. These model documents should be used for all new RD/RA negotiations. Negotiations already commenced may incorporate changes made by the 2014 CD and the terms of the new 2014 SOW to the extent feasible.

If you have questions about the 2014 CD, please contact Janice Linett, OSRE, Regional Support Division, 202-564-5131, linett.janice@epa.gov, or Mark Gallagher, DOJ Environmental Enforcement Section, 202-514-5405, mark.gallagher@usdoj.gov.

If you have any questions about the 2014 SOW, please contact Tracy Hopkins, OSRTI, Assessment and Remediation Division, 703-603-8788, hopkins.tracy@epa.gov, or Mark Gallagher.

We would like to extend our thanks to the original work group members as well as to all other EPA Regional and Headquarters staff who commented on drafts of the 2014 CD and 2014 SOW.

C. Disclaimer

This memorandum and its attachments are intended as guidance for EPA and DOJ employees. It is not a rule and it does not create any legal obligations. The extent to which EPA and DOJ will apply it in a particular case will depend on the facts of the case.

Attachments

¹ A revised version of the 2011 CD correcting a minor typographical error in Paragraph 55.a was issued on March 24, 2012.

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