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2.0 PRP Search Overview



The primary purpose of the potentially responsible party (PRP) search is to identify parties who may be liable under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The PRP search is designed to gather information establishing the elements of liability for each PRP.

Effective PRP searches are fundamental to the Agency's "enforcement first" strategy of maximizing PRP involvement in conducting response activities. Moreover, information obtained in the course of PRP searches serves a variety of other purposes in the site response process. These include:

- finding out from whom to obtain site access;¹
- facilitating site characterization by providing information on hazardous substances, site boundaries, disposal practices, and promising locations for RI/FS sampling activities;
- saving time and money associated with performing required National Historic Preservation Act evaluations. (See Chapter 2 References, p. 87);
- identifying individuals for organizations that may have historical information or historical knowledge of site activities;
- assessing potential applicable or relevant and appropriate requirements (ARARs) (See Chapter 2 References, p. 87.);
- developing waste-in lists and volumetric rankings; and
- assessing settlement prospects and litigation risks.

¹ "Clarification of CERCLA Entry Policy" (March 3, 2010); "Entry and Continued Access Under CERCLA" (June 5, 1987) (See Chapter 2 References, p. 87.)

Exhibit 1 presents a typical PRP search, but the process is not linear and there will be many times when tasks are not performed in the order presented. For example, removal GNLs may be issued after the preliminary stages of the search due to time constraints. Likewise, remedial GNLs may be issued on a “rolling” basis if the site is large and a party has been thoroughly reviewed.

Achieving the Agency's goals of accelerating cleanups, maximizing PRP involvement in response actions, and reaching fair settlements with PRPs requires careful and coordinated planning of the PRP search. Planning involves identifying key personnel involved in the PRP search, outlining their roles and responsibilities, determining the timing and duration of PRP search activities, and identifying tasks to be performed. The PRP search planning process should be a team effort.

2.1 Roles and Responsibilities

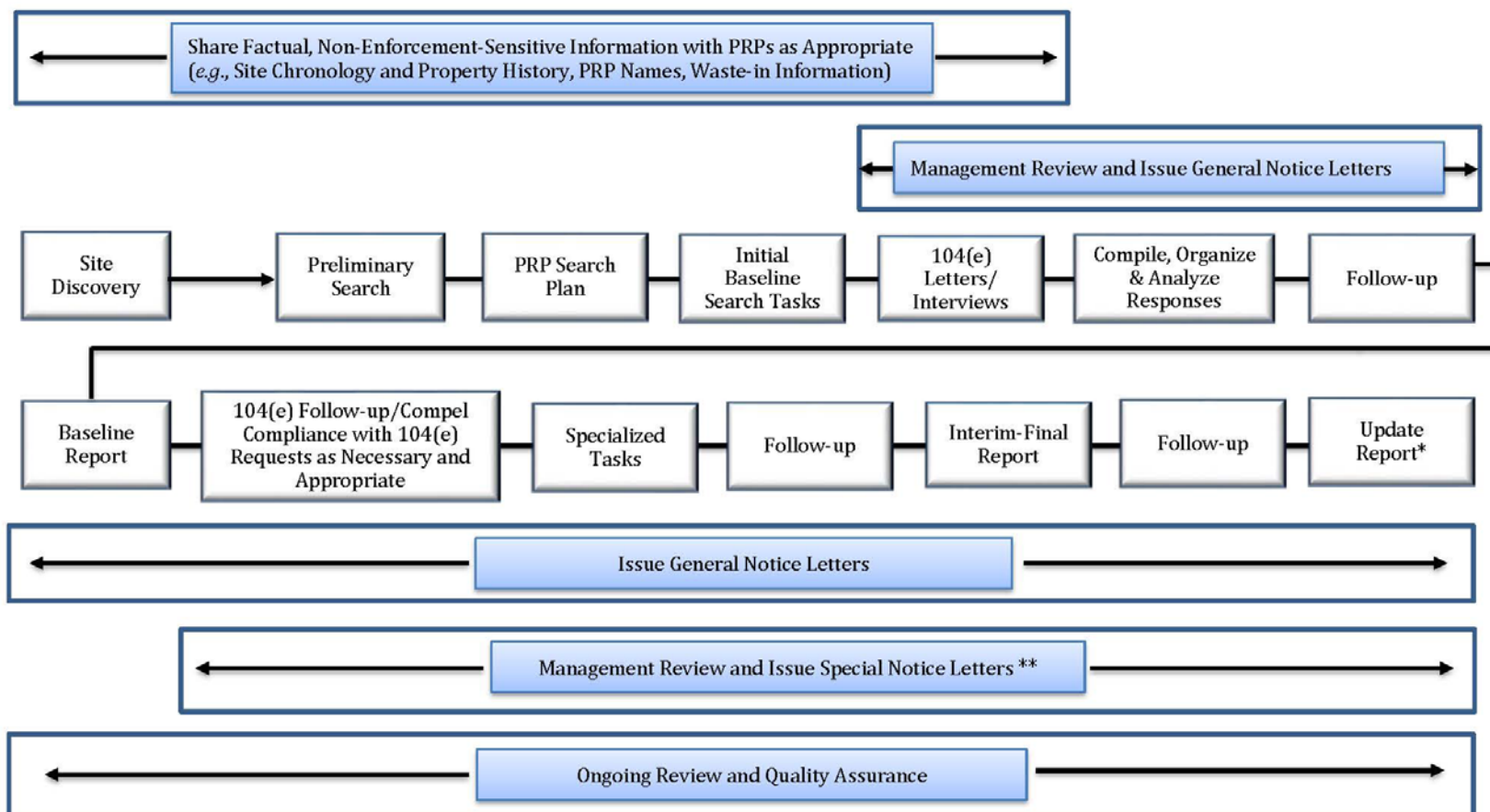


Management Team

In some regions, this strategy has been facilitated by a standing management team of regional EPA decision makers. The purpose of such a team is to ensure appropriate and effective coordination, communication, and integration of Superfund responses, and adequate personnel, funds, and decision-making processes to accelerate site responses. The team will generally take PRP search information into consideration when establishing priorities and direction for the site response.² Although the management team is not involved in the day-to-day management of the PRP search, it may request specific information about PRPs to determine, *e.g.*, the appropriate enforcement response or potential dollar needs for

² The National Prioritization Panel also will consider PRP search information when prioritizing sites proposed for Fund-financed remedial action.

Exhibit 1. Overview of Typical PRP Search Process



* Completed at least 90 days prior to issuance of RD/RA Special Notice Letters.

** Timing of special notice is generally dictated by response planning. The baseline phase of the PRP search should be essentially complete for the purpose of RI/FS Special Notice at least 90 days before the planned RI/FS start date. Improved evidence on liability and ability to pay will be collected during the RI/FS and follow-up phase, if necessary. Collection of such improved evidence will be completed, reviewed, and updated, if necessary, prior to issuance of RD/RA Special Notice Letters.

NOTE: This exhibit presents an overview of a typical PRP search. It is not intended as a prescribed process for every search. The appropriate process for a particular search is a matter for the professional judgment of the PRP search team.

orphan share compensation. Greater emphasis on the post-construction phase does not reduce the need to apply PRP search resources early in the listing phase for new NPL sites and sites with significant remaining future response work, and the management team can play an important role in determining the appropriate sites to “front load” with those resources.

2.1.1 PRP Search Team

Each EPA region has its own unique organizational structure and procedures for performing PRP searches, and the titles of persons performing search tasks vary from region to region. Search and search-related tasks may be performed by persons with one or more of the following job titles: civil investigator; remedial project manager; on-scene coordinator; case developer; attorney; paralegal; enforcement specialist; enforcement officer; enforcement project manager; cost recovery specialist; and environmental protection specialist. Moreover, specialization varies from region to region. In some, persons with these titles devote all their time to PRP searches, while in others they may be involved in additional and different phases of the enforcement process. As some general descriptions of key roles and responsibilities may cut across regional variations, duties frequently associated with certain job titles are presented below. For simplicity's sake, however, persons performing PRP search-related tasks are thereafter referred to as “PRP search personnel.”

PRP Search Manager

The PRP search manager has the lead for overseeing each site-specific PRP search. The search manager is responsible for selecting an appropriate combination of the search personnel to ensure an effective team to perform the following tasks as necessary and appropriate:

- establish PRP search priorities;
- establish PRP search strategy;
- develop PRP search work assignments, budgets, and schedules;
- manage contractor-conducted search tasks;
- define the scope of the search;
- review draft, interim, and final contractor deliverables;
- introduce the contractor to state and local government contacts, as needed;
- issue information request letters, GNLs, and SNLs;
- follow up on all tasks necessary for conducting a complete search;
- implement quality assurance and quality control (QA/QC) procedures to ensure the accuracy of data gathered during the search;
- gather adequate information for SNLs;
- perform ATP analysis (see discussion of ATP determinations in Section 4.5);
- gather adequate evidence of PRP liability and ability to pay;
- obtain site costs as appropriate for potential cost recovery;
and
- give PRPs an opportunity to provide input into the Agency's PRP search efforts.

Following are general descriptions of several categories of search personnel that comprise the search team, keeping in mind that in some regions similar tasks and certain post-search tasks may be performed by search personnel with one of the other job titles listed above.

Civil Investigator

The civil investigator (CI) may performs specialized PRP search tasks such as interviews with private parties and specialized investigative work related to, *e.g.*, waste disposal or PRP identification. CIs may assist PRP search managers or case attorneys in preparing CERCLA § 104(e) information request letters, reviewing evidence, and conducting interviews. In some regions, CIs are responsible for all PRP search activities; in other regions, contractors may be used to do a portion of the work, such as title searches, and CIs are responsible for all other activities. In some regions, CIs work exclusively on either removal or remedial PRP searches. Potential advantages to this approach are that it allows the investigator to become familiar with the special types of investigative situations that each presents, prevents conflicts between the remedial and removal programs, and ensures an investigator's availability in cases involving time-critical removals.

PRP searches often involve complex evidentiary and legal issues. If PRP searches are conducted or managed by remedial project managers, on-scene coordinators, or other personnel not experienced in performing enforcement investigations, it is advisable to involve both CIs or other enforcement staff and counsel in planning PRP search activities as well as in reviewing information obtained, contractor deliverables, and conclusions drawn from the investigation.

Remedial Project Manager

The remedial project manager (RPM) is the Agency official designated to coordinate, monitor, and direct remedial and certain other response activities at NPL sites. RPMs may serve as work assignment managers (WAMs) or contracting officer's representatives (CORs) on PRP searches, or assist other Agency personnel performing or overseeing the searches. RPMs are responsible for overseeing most of the settlement and UAO obligations (e.g., deliverables on remedy design and implementation) at enforcement-lead sites. Once PRPs have agreed to perform response actions at a site, the RPM is responsible for ensuring that studies and cleanup activities are performed correctly and in accordance with the ASAOC or CD, CERCLA, the NCP, and relevant policy and guidance. Moreover, RPMs may be involved in RI/FS, engineering evaluation and cost analysis (EE/CA), or RD/RA negotiations. As they work extensively with PRPs, RPMs should familiarize themselves with Agency policies and procedures for completing thorough PRP searches whether or not they are involved in performing one.

On-Scene Coordinator

The on-scene coordinator (OSC) is the Agency official designated to coordinate, monitor, and direct removal actions. A removal action is conducted to respond to a release or threatened release within a short period of time. OSCs need basic information, such as property ownership, very early in the removal action to enable them to get access to the site and identify the source of the release or threat of release. The OSC may ask for a thorough PRP search once the removal is under way or the release

or threat has been addressed. The nature and extent of an OSC's involvement in PRP search efforts will depend on the nature of the removal and the urgency of responding to the release or threat of release. Like RPMs, OSCs need to understand the PRP search process whether or not they are actively involved in a search. (See Section 2.2.1 for other PRP search-related tasks during removal actions.)

Paralegal

Some regions use paralegals to support PRP searches. Paralegals work with case attorneys and other staff to develop the evidence to support a finding of liability. They are generally skilled at researching case law, statutes, rules, and legislative histories using legal research databases such as Lexis/Nexis and Westlaw, which are made available to regional legal staff. Paralegals' research skills often extend to obtaining information regarding corporate filings from secretaries of state, and information regarding PRPs from business, news, and internet sources. Depending on the skills of the paralegal and the organizational structure in a region, paralegals may perform some of the same tasks as CIs or PRP search managers, including interviewing potential witnesses and PRPs. Paralegals also may research property ownership, perform limited title searches, and obtain deeds and maps relating to sites. Paralegals draft CERCLA § 104(e) information requests and review and summarize PRP responses to those requests.

Paralegals work closely with regional attorneys to trace corporate successors and help determine successor liability and liability of parent or subsidiary corporations. This often involves searching archives and public records for historical information. (See discussion of these and other liability theories in Section 3.6.10.)

EPA Attorney

The level of involvement of the case attorney in the PRP search may vary from region to region, site to site, and with the nature and number of legal issues associated with the site. The case attorney should be involved as early as possible to ensure that the scope of the search is appropriate and information collected meets evidentiary standards. It is very important to obtain attorney input regarding title searches, interviews, and questions relating to the definition of the site, classification of PRPs (*e.g.*, “de micromis”, insolvent), and sufficiency of evidence. As most PRPs retain legal counsel to represent them throughout performance of the response action, it is important that the case attorney, at a minimum, be involved in identification of critical PRP search planning and implementation milestones. EPA attorneys play a major role in all phases of the Superfund process, from site discovery through cleanup and post-construction activities, in addition to preparing litigation referrals to and serving as EPA’s main contact with DOJ. They sometimes also play the primary role in overseeing certain obligations (*e.g.*, filing of deed restrictions) required of PRPs at enforcement-lead sites.

Contractor

As mentioned earlier, each region performs PRP searches in a slightly different manner, depending on the organization of the region, availability of staff with PRP search experience, number of PRP searches, and other factors. Most, if not all regions, however, also employ contractors in some capacity when performing PRP searches. Contractor support activities include establishing and maintaining PRP databases, performing title searches, preparing PRP search reports, and reviewing and compiling records. (See Appendix B for a sample “Performance Work Statement for Enforcement Support Services,” including PRP search support.)

Contractors may not perform inherently governmental functions. Prohibited activities include making legal or liability determinations and approving and signing CERCLA § 104(e) information request letters. Contractors may, however, draft and mail § 104(e) letters and other correspondence. Regions may share enforcement support contracts with one or more other regions or enter into interagency agreements enabling them to access sister agencies' contractors to assist in PRP search efforts. Regional contracting officers (COs) and project officers (POs) should be consulted regarding award, period of performance, scope of work, and suitability of regional enforcement contracts for obtaining PRP search task support.

Financial Analyst

There are situations when specialized expertise is needed to make ATP determinations, assess complex PRP financial records or business transactions, and evaluate bankruptcy claims. In these instances, regions may use in-house financial analysts, EPA's National Enforcement Investigations Center (NEIC) staff expertise, or contractors with this expertise. Financial analysts may also help evaluate compliance with the financial assurance provisions of settlement agreements, and sometimes play the primary role in overseeing certain obligations (*e.g.*, filing of financial assurance) required of PRPs at enforcement-lead sites.

SEE Personnel

The Senior Environmental Employment (SEE) program was formally established through the Environmental Programs Assistance Act (June 12, 1984). (See Chapter 2 References, p. 87.) Under this Act, EPA is authorized to enter into cooperative agreements (CAs) with certain private, non-profit organizations designated by the secretary of labor as organizations that are eligible to receive funds under Title V of the Older Americans Act (1965). (See Chapter 2

References, p. 87.) The Act specifies that individuals age 55 and older in temporary, short-term assignments can provide technical assistance to federal, state, and local environmental agencies for projects on pollution prevention, abatement, and control. Most, if not all, regions participate in the SEE program.

Although not EPA employees, SEE personnel working for EPA in a PRP search investigative role could take on the following tasks:

- assisting in coordinating with other regional PRP search personnel to assure effective implementation of national investigative policy or guidance; and
- providing training or technical assistance on possible investigative techniques and approaches to other personnel who are involved in fact finding or information gathering.

If SEE personnel are used to support PRP searches or investigations, they should have a general knowledge of criminal and civil provisions of environmental protection statutes, knowledge of investigative principles and techniques, skill in the use of investigative techniques, and the ability to conduct interviews and draft interrogatories. Like other contractors, SEE employees must identify themselves as contractors and may not provide legal advice, make inherently governmental decisions, or sign CERCLA § 104(e) letters or other EPA correspondence.

Community Involvement

The PRP search team should consider establishing communication with the community involvement coordinator (CIC) early in the search process as community involvement activities may produce many benefits, including information on additional PRPs. People living in areas adjacent to Superfund

sites often include long-time residents who may have specific knowledge of the site and may be willing to share their information. Local communities should routinely be considered potential sources of information.

2.1.2 Opportunities for PRP Input



As PRPs have an interest in identifying additional parties with whom response costs might be shared – and may have information that could lead to such parties – EPA should provide PRPs an opportunity to participate in or provide input to the search.³ PRP input may speed up the settlement process, help avoid third party litigation, and facilitate private allocation efforts. In addition, PRPs may be invaluable in identifying witnesses and parties with pertinent information. It is up to EPA to determine whether PRP participation will be beneficial, define the nature and extent of such participation, evaluate information submitted by the PRPs, and maintain oversight of their search activities. It is advisable to make this determination as early in the search process as possible. CERCLA § 104(e) information request letters and GNLs may be used to invite PRPs to participate in the search and submit information about additional parties.⁴

If PRPs express interest in participating in the search, EPA will determine whether the potential benefits of their participation outweigh the burden of directing and overseeing their activities. Factors that EPA may weigh in making this determination include:

³ Planning of response and enforcement actions should allow sufficient time for EPA to issue follow-up CERCLA § 104(e) information request letters to newly identified parties.

⁴ Model CERCLA § 104(e) letters include questions seeking information from PRPs about other PRPs. (See “Transmittal of Sample Documents for More Effective Communication in CERCLA § 104(e)(2) Information Requests” (June 30, 1995), Chapter 2 References, p. 87, for sample information request letter questions.)

- whether the PRPs have the ability to provide needed information;
- whether information obtained by the PRPs may raise confidentiality issues;
- whether PRPs have cooperated with EPA and been responsive to its information requests;
- whether third-party tort issues or contribution litigation exist or may arise among PRPs;
- whether the PRPs have any advantage, bias, or interest that could influence their performance of search-related tasks;
- site-specific factors such as timing or large numbers of known PRPs.

Direction and Oversight

Proper direction and oversight are necessary to maximize the potential benefits of PRP participation in the search and to ensure that PRP-assisted searches are conducted in a manner both effective and consistent with overall Agency responsibility for the search. In some circumstances, EPA may find that channeling PRP input through a steering committee or other organized group of PRPs whose liability has been established facilitates direction and oversight. In addition, the following guidelines are recommended:

- The PRPs should commit themselves to working with EPA in good faith for the duration of the search.

- The PRPs should be in compliance with any CERCLA § 104(e) information requests issued to them and commit themselves to supplement those responses in a timely manner as additional information becomes available.
- The PRPs must not represent themselves as EPA personnel when performing PRP search-related tasks.
- Do not share with the PRPs any confidential business information (CBI), trade secrets, personally identifiable information (PII), any other information withholdable under the Freedom of Information Act (FOIA), or other sensitive information obtained from PRPs who are not participating in the search.
- Document the PRPs' tasks, roles, authorities, deadlines, and any tasks they may perform without EPA oversight in writing.
- Advise the PRPs that they must adhere to deadlines in order to avoid delays and ensure that EPA has enough time to consider information for a particular purpose, *e.g.*, issuance of SNLs.⁵
- Advise the PRPs that the work they perform must be fully documented in order to support its completeness and accuracy, and that all supporting records and documentation must be submitted to EPA for possible inclusion in the site's AR or for use as evidence in federal court.

⁵ Failure of the PRPs to meet agreed deadlines may result in EPA takeover of a task that a PRP has agreed to perform, which may increase PRPs' costs and result in information being obtained too late to be considered.

- Require that the PRPs explain the legal and factual basis of identified parties' liability and submit documentation supporting their determination.
- Require that the PRPs explain all assumptions made in compiling all waste-in lists they submit.
- Advise the PRPs that information submitted regarding other parties may be used for litigation and negotiation purposes, and ensure that they understand how to treat information claimed as CBI or PII. FOIA-withholdable information may not be shared with PRPs except pursuant to a confidentiality agreement with PRPs who are co-litigating partners with EPA. (See Section 2.3 for discussion of information disclosure issues.)
- Explain to the PRPs that although the Agency appreciates receiving information on additional parties, EPA is not obligated to explain or justify its decisions regarding whether or not to pursue those parties.
- Ensure that all PRPs participating in the search have equal access to information.
- Advise the PRPs of EPA's enforcement discretion policies.

EPA is under no legal obligation to address information provided by PRPs identifying other PRPs or to advise them whether the new parties were determined to be PRPs, but the PRPs who provided the information should receive some feedback or explanation as to why the newly identified parties were or were not named.⁶

⁶ EPA personnel are required to document in an enforcement-confidential memorandum their decisions either to exclude certain PRPs from any issued CERCLA § 106 unilateral administrative orders (UAOs) or not to issue § 106 UAOs to late-identified PRPs. (See "Documentation of Reason(s) for Not Issuing CERCLA §106 UAOs to All Identified PRPs" (August 2, 1996), Chapter 2 References, p. 87.)

PRP Search Tasks

As part of their efforts to identify additional parties, PRPs may perform associated tasks such as:

- conducting title searches;
- developing waste-in lists;
- preparing volumetric rankings;
- performing corporate and other public document research;
- providing information on industry processes and waste streams;
- identifying and locating witnesses and other knowledgeable parties;
- interviewing witnesses and providing EPA with notes and affidavits;⁷
- funding neutral alternative dispute resolution (ADR) professionals to assist in information-gathering efforts;
- establishing and managing document repositories of publicly available, non-privileged, non-CBI site information;
- developing databases to make site information accessible to widely dispersed parties; and
- sharing information from in-house databases.

⁷ EPA may choose to re-interview witnesses originally interviewed by other PRPs and obtain its own affidavits or witness statements.

EPA Responsibilities

Just as EPA determines whether PRPs will participate in the search, it determines what tasks they will perform. Regardless of the nature and extent of PRP participation, however, EPA -- and specifically the PRP search team -- is responsible for performing the primary search functions and bringing the search to a successful conclusion. The Agency's prerogatives include:

- determining the timing and extent of the PRP search;
- deciding which parties should receive CERCLA § 104(e) information request or notice letters;⁸
- evaluating information developed in the course of the search; and
- deciding which parties to name as PRPs.

2.2 PRP Search Plan

The site-specific PRP search plan focuses on the “nuts and bolts” of how the search will be conducted; it identifies the goals of the search and the tasks necessary to achieve them. The PRP search plan should be considered iterative in nature since it is not possible to foresee all the types of information that may need to be gathered, the questions and issues that may develop during the baseline phase, or the tasks necessary to complete as part of a follow-up search. PRP search plans should not be confused with PRP search work plans. Work plans are documents prepared by contractors that describe in detail the work to be performed and identify proposed staff in response to a scope of work prepared and issued by EPA or another contracting agency.

⁸ EPA notifies small businesses of their right under the Small Business Regulatory Enforcement Fairness Act to comment on regulatory enforcement activities when the Agency makes its initial enforcement contact with the business. In the CERCLA context, this initial enforcement contact is typically the GNL or SNL accompanied by the Small Business Information Sheet. (See Chapter 2 References, p. 87.)

Since each site involves a unique set of legal and technical issues, there is no fixed set of tasks that must be performed during every PRP search; the nature and number of search tasks will vary from site to site. For instance, a PRP search at an industrial plant site with only a few owner/operators may require only a baseline effort with few or no follow-up tasks. At a complex site, on the other hand, a baseline search is insufficient and will require follow-up activities. (See Appendix C for a fillable PDF checklist of PRP search tasks.) The plan should have the flexibility to respond to needs identified in any part of the PRP search process. To ensure that the PRP search plan addresses potential legal, technical, and policy issues that may be associated with the search, the PRP search manager should include the RPM, OSC, case attorney, and all other PRP search personnel working on the site in development of the plan. (See Exhibit 2, "PRP Search Process Flow Chart.") The PRP search plan should be fully implemented before RD/RA negotiations commence.

Despite the differences among sites, PRP search plans generally address the following:

- defining search tasks and the order in which they should be performed, including follow-up tasks to repair data gaps that appear during the search;
- defining resources needed to accomplish search tasks, taking into consideration site factors that may require specialized resources and skills, such as:
 - an unusually large number of arrangers,
 - PRPs that may qualify for an exemption,
 - area-wide ground water contamination or surface water contamination where sources are not apparent,

non-contiguous sites, *e.g.*, where one company owned or operated multiple sites and transshipped wastes between them, or

- mining sites, particularly those that are very old or involve large watersheds,
- developing a detailed scope of work to obtain contractor support, if necessary;
- establishing a schedule for completion of search tasks;
- managing the search, including;
 - roles and responsibilities of all members of the PRP search team,
 - procedures for assessing search progress, conducting evidence reviews, and identifying impediments to progress, and
 - describing the PRP search team's strategy for encouraging PRP participation in the search.

2.2.1 Timing and Duration



The PRP search should be initiated as soon as possible after it becomes reasonably certain that EPA will incur response costs at a site. Searches may be performed in phases. Search activities may be initiated during a removal response or during the PA/SI if a removal action is anticipated before a site is proposed for listing on the NPL.

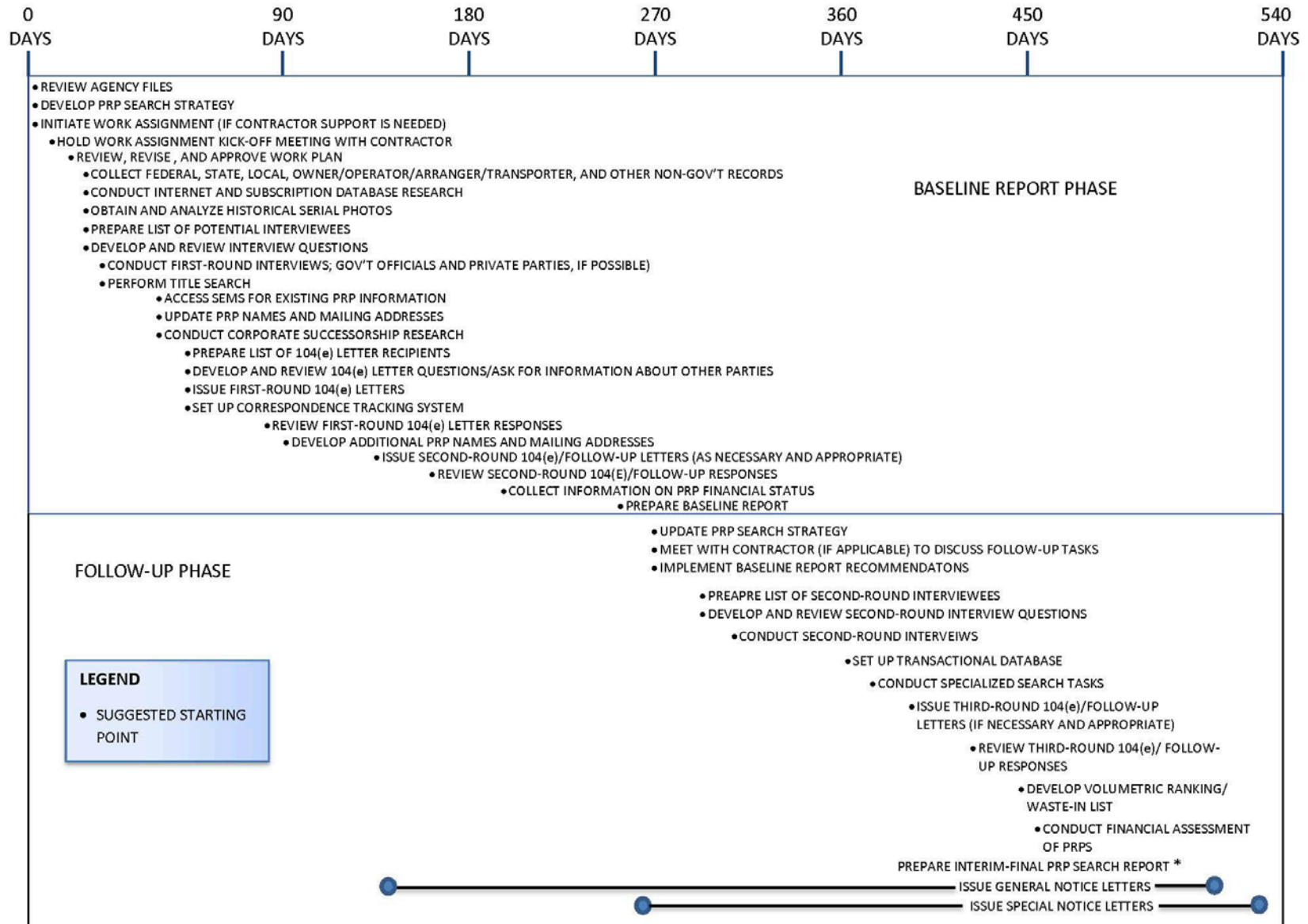
Many traditional pre-remedial site assessment tasks provide information needed for the PRP search. These tasks need not be duplicated by the PRP search staff. Appendix D provides a checklist for removal and pre-remedial sites that was developed to assist early on-site responders (*e.g.*, OSCs, PRP search personnel) in documenting valuable information on PRPs and site conditions.

To avoid duplication of these tasks, early on-site responders may fill out the checklist as completely as possible, forward a copy to regional PRP search personnel conducting the search, put a copy in the site file, and provide a copy to the case attorney.

Basic tasks needed at any site, including removal sites, include (1) identifying the current site owner and, if applicable, operator, and (2) gaining access to the site. Identifying the owner/operator is particularly urgent at removal sites as the early responder needs to determine whether the party is capable of or willing to perform actions to stabilize conditions at the site. Once a removal response has been completed or the site has been proposed for listing on the NPL, additional search tasks may be undertaken. In practice, depending on resources and the urgency of site response actions, there may or may not be a break between phases of the PRP search.

PRP search activities are generally iterative rather than discrete, especially at more complex sites. For example, at a watershed contaminated by mining activity where there are hundreds of waste piles or discharging mine adits that could be sources, the PRP search team may wait until technical staff have determined which waste piles or adits will require a response before undertaking extensive ownership and operational history research. In such situations, the region may choose to have a contractor conduct research on archives, library, and government agency records for all individual mines and mills within the site, but initiate title searches for individual mine properties only when a response action for the facility is being planned.

Exhibit 2. Typical PRP Search Process Flow Chart



* At sites where no volumetric ranking/waste-in list or financial assessment of PRPs is done, the interim-final PRP search report should be prepared 60 days after review of third-round 104(e)/follow-up responses. At sites where a volumetric ranking/waste-in list or financial assessment of PRPs is done, the interim-final PRP search report should be prepared 120 days after these tasks are completed.

In conducting the PRP search, regions should consider which of the tasks outlined below are cost-effective and reasonable relative to anticipated overall cleanup costs at the site.⁹ (The Superfund Program Implementation Manual (SPIM) indicates that Task 1 is mandatory, but this is so only for purposes of getting credit for a “PRP Search Completion” as defined by SPIM’s tracking guidelines.) Regions should document in the site file that they have taken all reasonable, achievable steps to identify PRPs. Ideally, those steps should be taken prior to initiation of cleanup negotiations, but this may not be feasible in all situations.

1. PRPs have been afforded opportunities to participate in or contribute to the PRP search, and the information contributed has been verified and/or authenticated and incorporated in the PRP search.
2. All relevant and material leads from CERCLA § 104(e) responses, interviews, and other primary or source documents have been pursued.
3. Sufficient information and evidence have been obtained to support the government’s liability case or to determine that no viable PRPs exist or can be found.
4. PRPs have been categorized and financial and waste contribution information needed to perform orphan share calculations has been collected.
5. Ability to pay determinations (including but not limited to the investigation and analysis of any applicable insurance coverage) have been made for those PRPs who have asserted inability to pay in good faith.
6. GNLS have been issued to all PRPs being pursued.

⁹ Superfund Program Implementation Manual (SPIM) Fiscal Year 2017, Chapter X.A.7.b, pp. X-6-7, September 30, 2016. (See Chapter 2 References, p. 87.)

The following two sections provide a more detailed discussion of the timing and duration of PRP searches at removal and remedial sites.

Removal Searches

When PRPs are known and are able to perform the removal, EPA prefers that they undertake the response action. EPA's goal is to maximize PRP participation in all aspects of site response, including the removal process, which means PRP searches in the removal context are important.

A PRP search should be part of the removal site evaluation conducted by the OSC. An important reason for initiating a PRP search during the removal site evaluation is to identify and locate the property(s) and owner(s) in order to obtain access. To the extent appropriate under the circumstances, the search should proceed to identify other PRPs and attempt to have them perform the necessary removal action. If the removal is conducted with federal funds from the Superfund appropriation, additional search activities during a stabilization action may be warranted to identify PRPs to take over the action and reimburse EPA's response costs.

The appropriate level of effort to devote to PRP search tasks in the removal context depends on the amount of time between discovery of the release or threatened release and execution of the action memorandum, the urgency of the need to respond to the release or threatened release, the estimated cost of the removal, and available resources. At a minimum, the current owner and current operator should be identified and, as appropriate, issued notice. This can often be accomplished readily and reliably by consulting witnesses and neighbors, signs and placards, or the local assessor's office.

EPA classifies removals into three categories:



1. Emergency Removals

Emergency removals are initiated in response to a release or threatened release that requires on-site activities within hours of determination that an action is needed. In emergency situations in which the PRPs are not immediately known, oral inquiries should be made of municipal officials and reasonably available on-site personnel, and reviews of readily available site records should be undertaken.

The OSC should prioritize and expedite certain search activities to support the notice, negotiation, and ASAOC process before the removal begins. Such activities may include notifying PRPs orally of their potential liability after consulting the ORC, and following up with a notice letter as soon as possible after the oral notification. An expedited work assignment under a regional enforcement support contract may be used for this purpose. (See the expedited PRP search support task in the sample “Performance Work Statement for Enforcement Support Services” in Appendix B.) Once the site is stabilized, a second, more extensive phase of PRP identification can commence.

2. Time-Critical Removals

Time-critical removals are initiated when the lead agency determines, based on a site evaluation, that a removal action is appropriate and on-site activities must be initiated within six months.

In time-critical situations, the OSC and PRP search personnel should follow procedures that expand upon the PRP search activities discussed for emergency situations. Title searches and on- and off-site interviews also may be conducted. CERCLA § 104(e) information requests that include questions pertaining to arrangers, transporters, and financial viability may be used to obtain additional evidence.

3. Non-Time-Critical Removals

Non-time-critical removals (NTCRs) are initiated when the lead agency determines, based on a site evaluation, that action is appropriate but a planning period of more than six months is available before on-site activities must begin. NTCRs are managed by RPMs in some regions.

PRP searches for NTCRs are expected, generally, to obtain the same level of PRP information that would be gathered during a PRP search at a remedial site. As in remedial searches, follow-up activities should be completed in time for issuance of GNLS.

Typical NTCR PRP search tasks include:

- reviewing EPA, state, and local agency files for information regarding land use, owners and operators, waste handling, and disposal permits;
- questioning persons on or near the site in greater detail;
- conducting extensive on-site and off-site interviews;
- reviewing documents left on site, *e.g.*, manifests, arranger information, business records (business partners, financial status), payroll records (former employees who may have information about arrangers, operators, or on-site waste disposal);
- issuing CERCLA § 104(e) letters; and
- conducting title searches.

Other considerations applicable to all removal searches include:

- Neighbors and nearby businesses are often rich sources of information about former and current site owners and operators and site activities. These people should be interviewed as soon as possible.
- Visual evidence linking PRPs to the site (*e.g.*, drum labels, shipping records, vehicle registrations) should be documented, photographed, or photocopied, as appropriate.
- The case attorney should be advised promptly if criminal activity is suspected.

Agency guidance requires regions to consult with the Office of Site Remediation Enforcement (OSRE) when contemplating Fund-financed removal actions that exceed the \$2 million limit set by CERCLA § 104(c)(1). The region is expected to submit a consultation package that includes an enforcement addendum to the removal action memorandum setting forth information on the status of the PRP search. The addendum should include, but not necessarily be limited to, information on the PRP search, efforts to contact viable PRPs, the rationale for using Fund monies in lieu of PRP resources, and whether additional PRP search work or contact with any known PRPs is appropriate at the site. (See "Timing and Procedures for Review of Certain Time-Critical Removal Actions by EPA Headquarters Offices" (February 26, 2013) and "Checklist of Information to Include for Consultation on Time-Critical Removal Actions by the Office of Site Remediation Enforcement" (July 8, 2015), Chapter 2 References, pp. 87-88.)



Remedial Searches

Remedial sites typically require comprehensive PRP searches that may be performed in two or more phases. Search activities should begin as soon as the region believes that the site would qualify for listing on the NPL and that a long-term response is appropriate.

Remedial sites are those that would score 28.5 under the hazard ranking system (HRS) or otherwise satisfy one or more of the following listing criteria:

- contaminated aquifers used for public drinking water;
- soils in residential areas or schools contaminated with hazardous substances significantly above background levels; and
- sensitive environments, and those with threatened or endangered species, containing hazardous substances significantly above background levels.

Timing and duration goals for remedial searches are to:

- identify a sufficient number of viable PRPs concurrently with the NPL listing of a site to negotiate performance of the RI/FS;
- identify and classify PRPs such that EPA can offer de minimis parties a settlement prior to conclusion of the RI/FS, *i.e.*, before issuance of the record of decision (ROD);
- identify the insolvent and defunct parties so that an orphan share can be calculated, if appropriate, and the number of viable PRPs for negotiations can be established prior to the issuance of RD/RA SNLs; and

- identify and classify other parties (e.g., “de micromis” and municipal solid waste contributors, parties with ability to pay problems) prior to issuing GNLs.

With potentially numerous and complex legal and technical issues to address at remedial sites, a phased approach to the PRP search should be considered. A phased approach may initially yield a core group of financially viable, capable, and cooperative PRPs with whom EPA can negotiate performance of the RI/FS. EPA may then continue PRP search efforts, perhaps with assistance from the PRPs, while the core group of PRPs is performing the RI/FS.



Follow-up activities to the initial phase of a remedial search will likely be highly site-specific and may be dictated by leads developed from prior activities or sampling and response activities. Relatively straightforward enforcement sites may only require a few interviews as follow-up to evidence-preservation activities in order to establish PRP liability and determine ability to pay. Complex enforcement sites such as area-wide ground water sites and landfills typically require more comprehensive follow-up activities such as issuing a large number of information request letters, conducting interviews, and developing transactional databases. Old sites with limited documentation also may present complex liability issues calling for site-specific follow-up activities.

For planning purposes, regions should identify a general period of two to five quarters for conducting PRP searches, with more time allowed for complex, multi-arranger sites. Some complex sites, such as those with area-wide ground water contamination with multiple sources of hazardous substance releases or stream sediment contamination, may require specialized tasks that extend through the RI. Where enforcement staff and resources allow, a baseline PRP search report ideally should be completed for specific parcels of land that identifies the owner/operator 90 days before the start of the RI/FS, and the interim-final PRP search report ideally should be completed at least 90 days prior to issuing RD/RA SNLs.

Adhering to these schedules may be problematic or impractical for ground water and sediment sites as RI/FS sampling data may be necessary for PRP identification. (See Section 3.10 for detailed discussion of the baseline PRP search report.)

Even if a PRP search seems complete for a specific purpose, EPA may undertake additional search activities. This is likely to be the case when follow-up search activities are needed to support the Agency's cost recovery efforts against non-settlers or at sites with Trust Fund-financed cleanups. For instance, additional information request letters can be sent to a facility's suppliers during cost recovery litigation in an effort to obtain more evidence about the facility's waste. If EPA is engaged in ongoing litigation (*e.g.*, cost recovery), PRP search personnel should coordinate closely with the assigned attorney in issuing any such information requests.

Although strong precedents support the claim that EPA's administrative information-gathering authorities are separate and distinct from the civil discovery process, case teams¹⁰ should carefully consider their available options in the context of ongoing litigation.

2.2.2 Streamlining Considerations

Due to constrained resources and an increased focus on gathering more PRP search information earlier, possible ways to increase the efficiency of a PRP search include:

- a comprehensive enforcement support contract that provides for expedited PRP search support;
- simultaneous submission of reports to all Agency reviewers;

¹⁰ The case team generally includes the search team. Although there is often considerable overlap between members of each, the case team's responsibilities include negotiation, settlement, litigation, and enforcement in addition to PRP search activities.

- open procurement authority for enforcement staff; and
- a removal/pre-remedial checklist to avoid duplicating tasks.

Enforcement support contracts may provide for obtaining expedited PRP search support. Under the appropriate contract vehicle, any PRP search-related support could be obtained on an expedited basis. (See Tasks 1 and 2 of the “Performance Work Statement for Enforcement Support Services” in Appendix B.) Consult your region’s CO or PO to determine whether a contract vehicle is in place that allows for expedited PRP search support.

Some regions are reducing PRP search deliverable review times by requiring the PRP search contractor to submit copies of the draft baseline and interim final PRP search reports simultaneously to the program and ORC offices. Regions are also encouraged to require phased deliverables instead of one or two deliverables over the life of the PRP search. Phasing can reduce the risk of contractors conducting searches that are entirely off track, increase product quality, and provide opportunities to modify the PRP search approach incrementally.

Enforcement investigative staff typically make repeated small purchases in the performance of their duties, primarily for photocopying. Some regions have successfully streamlined the process for reimbursing Agency employees for such out-of-pocket expenses. Streamlining involves the use of an open procurement request (PR) against which a succession of claims may be made instead of preparing a new PR for each claim. Open PRs are established for each investigator, authorizing the individual to incur expenses up to the amount committed under the PR. Investigators obtain reimbursement by providing receipts and documenting a Standard Form (SF) 1164 referencing the open PR. Enforcement investigative staff should consult the appropriate regional contract and financial personnel about specific procedures for open procurement.

An early on-site responder's checklist (Appendix D) is another useful tool for streamlining the process and reducing duplication of activities.

2.3
Information
Disclosure
Issues

The Agency adheres to EPA guidelines and statutory and regulatory requirements when determining whether to release information to other PRPs. The Agency emphasizes the importance of a consistent approach when releasing information to PRPs about the identity, source, relative contributions, type, and quantity of wastes at a site. (See "Revised Policy on Discretionary Information Release Under CERCLA" (March 31, 1993) and the "Privacy Policy" issued by the Agency's Chief Information Officer (September 14, 2015), Chapter 2 References, p. 88.)

2.3.1
Release of
Information

Information may be released through direct contact with PRPs, in conjunction with issuance of GNLs or SNLs, or by other means. For example, if a large number of PRPs is identified at a site and a PRP steering committee has been formed, the steering committee could be an effective channel for releasing information to all PRPs. It may prove beneficial for EPA to convene a meeting of PRPs at either the EPA regional office, state office, or a location central to the PRP community. The goal here is for EPA and state staff involved with the site to provide information, answer questions, and receive input from the PRPs. Convening a meeting of PRPs can result in the identification of additional PRPs and facilitate formation of a PRP steering committee.

2.3.2
Handling
Sensitive
Records

Information release also may occur when the region invokes special notice procedures under § 122(e)(1) of CERCLA. When invoking these procedures, EPA must provide PRPs with waste-in lists, volumetric rankings, and a list of PRPs' names and addresses "to the extent such information is available." Contact information (e.g., addresses) of individuals may not be released in an SNL, however, as it is exempt from disclosure as PII. Documents may include manifests, logbooks, waste tickets, receipts, and CERCLA § 104(e) responses.

2.3.2.1
Confidential
Business
Information



Confidential business information (CBI) is commercial or financial information obtained from a person that is privileged or confidential. Protection of CBI keeps others from deriving a business advantage from information to which a specific party has exclusive rights. CBI includes such items as trade secrets and other proprietary information, *e.g.*, the design of an innovative treatment technology. CBI also includes tax returns and other financial data to the extent that they have not already been released by the company in, for example, its annual report. When a company submits information that it thinks should be treated as CBI, it should label the data as such and explain why the information is considered confidential. EPA is required to advise PRPs of these requirements when issuing information request letters under CERCLA § 104(e). EPA does not have to decide whether the information is CBI unless someone requests its release, but EPA maintains the security of that information as if it were CBI until EPA makes a determination to the contrary. (See 40 C.F.R. 2.201, et seq., Chapter 2 References, p. 88, for information on EPA procedures for making CBI determinations.)

2.3.2.2
Enforcement-
Confidential/
Enforcement-
Sensitive

Enforcement-confidential and enforcement-sensitive records are documents such as plans for enforcement actions, case-specific enforcement strategies, and draft PRP search reports, that might damage EPA's enforcement case if they were released. Therefore regions should establish records management processes and procedures that are consistent with applicable law to prevent the unauthorized release of enforcement-confidential and enforcement-sensitive documents. Even though a document has been marked enforcement-confidential or enforcement-sensitive, it must be reviewed for privilege in discovery or in response to a FOIA request (see Section 2.3.2.3) to ensure that the designation remains appropriate. For FOIA purposes, the record would be analyzed under Exemption 7(A). Exemption 7(A) protects records or information compiled for law enforcement purposes but only to the extent that production of such law enforcement records could

reasonably be expected to interfere with or harm EPA's enforcement proceedings. The harm cannot be speculative or an abstract fear. You will need to point to a specific pending or contemplated proceeding that could be harmed by disclosure (*i.e.*, release would hinder the Agency's ability to control or shape investigations, would enable targets to elude detection or suppress or fabricate evidence, or would prematurely reveal the Agency's enforcement strategy). The exemption may only be invoked as long as the law enforcement proceeding involved remains pending. (See Section 3.3.3 for further discussion of reviewing documents for discovery.)

2.3.2.3

Information

Requested

Pursuant to FOIA

FOIA¹¹ imposes two basic requirements:

- a duty to publish or otherwise make publicly available certain classes of agency records; and
- a duty to make all other agency records publicly available upon written request, unless specifically exempted by statute.

FOIA applies to federal agency records. A two-part test must be used to determine if a document is an agency record. Records must be (1) created by or obtained by the agency and (2) in the agency's possession and under its control at the time a request is received. FOIA does not require an agency to create a record in response to a request for information or require an agency to provide future records. A record would be any item, collection, or grouping of information that pertains to the subject of a specific FOIA request. FOIA amendments enacted in 2007 expanded the definition of record to include any information that would be an agency record maintained for an agency by a government contractor for the purposes of records management. Information maintained by a government contractor may need to be searched in response to a FOIA request.

¹¹ 5 U.S.C. § 552 *et seq.* See also Chapter 2 References, p. 88.

A FOIA search requires that a reasonable search be conducted, one “reasonably calculated to uncover all relevant documents.” A reasonable effort must be made to search for records in multiple formats, including electronic formats. The search need only be reasonable; it need not uncover every responsive document in existence, but an agency employee must not avoid searching for records known to exist.

Once an agency determines that something is a “record,” it must process it in its entirety for exemption applicability. Only those portions that are exempted may be redacted. It is no longer permissible to redact information within a record as “non-responsive.” In light of this, you will want to ensure that you carefully define a “record” responsive to a request so that you are not unnecessarily processing material that is not what the requester is seeking.

Under the FOIA Improvement Act of 2016, an agency can withhold information under FOIA only if the agency reasonably foresees that disclosure would harm an interest protected by an exemption or if disclosure is prohibited by law.

On June 30, 2016, President Obama signed into law the FOIA Improvement Act of 2016 (Act). The Act makes important changes to the existing FOIA passed 50 years ago. The Act contains several substantive and procedural changes, including the requirements that agencies establish a minimum of 90 days for requesters to file an administrative appeal and that they be provided dispute resolution services at various times throughout the FOIA process. The Act also codifies the Department of Justice’s “foreseeable harm” standard, amends Exemption 5, creates a new “FOIA Council,” and adds two new elements to Agency annual FOIA reports.

The initial response should inform the requester of the agency’s decision to release or deny records, when it will release records, the anticipated cost to the requesting party, and that the requester

may appeal the agency's decision. The initial response is due 20 working days after receipt of the request. The agency may obtain a 10-day extension by informing the requester in writing of "unusual circumstances" that will cause delay, such as the need to search separate office and field locations, search voluminous records, or consult another agency.

When the extension is for more than 10 working days, the agency is also required to provide the requester an opportunity to limit the scope of the request so that it can be processed more quickly or to arrange an alternative time to respond. Failure of the agency to respond within deadlines may constitute an exhaustion of administrative remedies, allowing the requester to go to court immediately. FOIA precludes an agency from collecting fees if the agency does not respond to a request within 20 days, except where "unusual circumstances" or "exceptional circumstances" apply to the processing of the request.

Title 5 U.S.C. § 552(b) defines nine categories of records that are exempt from release under FOIA.

Exemption 1 - National security

This exemption protects from disclosure national security information concerning national defense or foreign policy that has been properly classified in accordance with procedural requirements of an executive order. EPA received classification authority in 2002.

Exemption 2 - Internal rules and practices of an agency

This exemption applies to two kinds of records: (1) records the disclosure of which may lead to the subversion of an agency rule or policy, and (2) technically responsive yet purely inconsequential records that contain little information of value in comparison to the burden of having to provide it to the requester.

Exemption 3 - Records specifically exempted by statute

Congress often exempts specific kinds of records through an “Exemption 3 statute” instead of a FOIA amendment. Laws that exempt specific records include the Federal Rules of Criminal Procedure (grand jury information), the Patent Act (unfiled patent application materials), Procurement Integrity Act (site selection information), and certain statutes dealing with the location of endangered species. Critical infrastructure statutes may contain FOIA exemption provisions.

Exemption 4 - CBI/Trade secrets

Exemption 4 protects trade secrets and commercial or financial information that is obtained from a person that is privileged or confidential. The release of such information would either cause substantial competitive harm to the submitter of the information or impair the government’s ability to obtain such information in the future. Information that is voluntarily submitted to the agency has only to meet the lower standard of not being otherwise publicly available. Information must involve a formula or production process to be granted trade secret status. Most business information is not a trade secret under that definition.

Information that is claimed as CBI or a trade secret by a submitter may initially be withheld from a FOIA requester pending a confidentiality determination by OGC or ORC. OGC is responsible for making final determinations for all headquarters CBI requests and only for those regional CBI requests involving FIFRA and TSCA. All other CBI determinations are made by the appropriate ORC.

When Exemption 4 is used to withhold information, the office sends an initial denial letter to the FOIA requester explaining that the information has been claimed as CBI and that EPA is making a final determination regarding whether the information is entitled to confidential treatment. Program offices are also encouraged to contact the FOIA requester directly (by phone or e-mail) to ask if

the requester is willing to narrow the scope of the request to exclude the CBI. In addition, a request for substantiation letter should promptly be sent out to the submitter business asking it to confirm its CBI claims for the information and to substantiate any claim of confidentiality.

Exemption 5 - Privileged communications

A record must satisfy two criteria to qualify for this exemption. First, the record must be inter- or intra-agency, meaning it cannot have been shared outside the executive branch. Records or information that originated outside the executive branch may nonetheless be considered intra-agency if the source is a consultant. A “consultant” is one who assisted the agency’s decision-making process by advising the agency on a matter in which the consultant has no stake in the outcome and is not otherwise advancing an interest or agenda that may benefit it over other parties. Settlement records often must be released because they are not inter- or intra-agency records. Second, the record must be protected by a civil discovery privilege. Common privileges include:

DELIBERATIVE PROCESS PRIVILEGE

The record must be pre-decisional and deliberative. The purpose of the privilege is to promote frank and honest discussion of options prior to a decision and to avoid public confusion about the rationale behind an agency decision. Indicators of the privilege include the management level of the author, the point in the decision-making process when the record was created, and how the record was used. The privilege does not lapse after a decision is made, and generally does not cover facts.

Under the FOIA Improvement Act of 2016, the privilege will not apply to records created 25 years or more before the date on which the records are requested.

ATTORNEY-CLIENT PRIVILEGE

The record must have been drafted by or at the direction of an attorney and contain advice regarding a client's legal issue and must have been generated and maintained in confidence. The purpose of the privilege is to facilitate effective representation by promoting frank and open discussion between attorney and client. The agency - not an individual employee or program office - is the client. Privilege may protect opinions and facts. Privilege does not attach unless the attorney is actually employed or acting in a legal capacity. Privilege can protect communications with any EPA employee, not just members of management.

ATTORNEY WORK PRODUCT PRIVILEGE

The record must have been drafted by or at the direction of an attorney in anticipation of litigation, and generated and maintained in confidence. The purpose of the privilege is to protect the mental impressions and work product generated by an attorney while representing a client in litigation. Litigation need not have commenced; the work product only needs to identify specific claims that may reasonably lead to litigation. A record generated as a normal part of an agency's functions that later may be relevant to litigation is not covered. The privilege may also apply to factual materials. The work that PRP search personnel do is covered under this privilege, and materials they create should be coded as such when sent to the regional records center for indexing. Consult regional counsel to determine if such materials may also qualify for the deliberative or attorney-client privileges.

Exemption 6 - Personal privacy

This exemption protects personal information whose disclosure would constitute a “clearly unwarranted” invasion of personal privacy. PII qualifies for this exemption and also Exemption 3 as it falls under the Privacy Act.¹² The purpose of FOIA is to allow public inspection of information that is relevant to the workings of government, not necessarily every piece of information the government possesses. This exemption requires a constant balancing of the public interest in the requested information and the individual’s right to privacy.

Exemption 7 - Law enforcement

This exemption applies to documents that are compiled for civil or criminal law enforcement purposes. The exemption applies to documents the disclosure of which:

- could reasonably be expected to interfere with law enforcement proceedings (open investigations only; documents relating to closed investigations must be released);
- would violate a person’s right to a fair trial; could reasonably be expected to constitute an “unwarranted” invasion of personal privacy (lower threshold than Exemption 6);
- could reasonably be expected to disclose a confidential source;
- would disclose law enforcement techniques and procedures and could reasonably be expected to risk circumvention of the law; or
- could reasonably be expected to endanger the life or physical safety of an individual.

¹² 5 U.S.C. § 552a *et seq.* See also Chapter 2 References, p. 88.

Exemption 8 - Banking information

This exemption applies to records used by agencies responsible for the regulation or supervision of financial institutions.

Exemption 9 - Well data

This exemption applies to geological and geophysical information and data, including maps, concerning wells. Respondents to § 104(e) letters may be able to claim well data as confidential. Consult regional counsel or your regional FOIA officer if a respondent makes such a claim.

As EPA employees risk criminal liability by releasing protected information such as CBI materials or Privacy Act information, regional FOIA officers/experts or regional attorneys should be consulted whenever responding to FOIA requests and OGC or ORC should be consulted whenever a question arises about releasing or withholding records.

2.4 Document Management



During the planning process, the search manager should establish a file structure for the search, considering factors such as existing regional file structures, anticipated volume of information, nature of PRP interaction with EPA on the PRP search, anticipated information exchange, FOIA response requirements, and evidentiary concerns; ascertain whether the accumulated data are likely to be voluminous enough that an electronic system for managing them will be needed; and develop or obtain such a system. The PRP search manager should utilize the expertise of the records manager in each region. This person can be valuable in organizing and managing records. A document control system for identifying and tracking documents should also be established.

Factual information gathered during a PRP search can be grouped by its source and within each source by PRP. Information request letters and responses should be organized and maintained for use by Agency personnel. Government documents, title search documents, PRP documents, interview summaries, and information request letters and responses may be grouped separately. Index numbers should be assigned to all documents to ease referencing of evidence summary sheets and the PRP search report. Section 3.2 discusses some factors involved in database creation and the storage and special handling of documents.

2.4.1 Superfund Enterprise Management System



The Superfund Enterprise Management System (SEMS) is an internal information management tool used by program staff and managers to plan and track activities for the removal, site assessment, remedial, federal facility, and enforcement programs. SEMS allows users to manage information about PRPs identified at sites as well. In addition to basic information such as the party's name, address, and telephone number, its involvement at a site (*e.g.*, owner, operator, arranger) and type (*e.g.*, municipality, private company, state agency) are entered and tracked in SEMS.

Likewise, SEMS tracks whether a party has been issued a GNL, SNL, or § 104(e) information request, or if a party is associated with a litigation referral. SEMS also tracks any enforcement instruments a party may be associated with, including what investigation and cleanup actions the party has agreed to perform itself or what actions the party has agreed to reimburse EPA for performing.

Regional SEMS users can enter the details about a new party or search for information about an existing party. SEMS's data-sharing capability across all ten regions makes it easy for regions to locate an existing party and documents relating to that party, reducing the need to repeat preliminary work that has already been performed.

Party information tracked in SEMS is available to all regions and headquarters the same day the data are entered. Any SEMS user can access party information. Check with your regional information management coordinator for more information.

A summary of SEMS's capacity and the type of PRP-related data gathered, along with examples of screens used when entering data, can be found in Appendix E.

Chapter 2 References		
Name	Section	Location
Clarification of CERCLA Entry Policy (March 3, 2010)	2.0	https://www.epa.gov/enforcement/guidance-clarification-superfund-entry-policy
Entry and Continued Access Under CERCLA (June 5, 1987)	2.0	https://www.epa.gov/enforcement/guidance-superfund-entry-and-continued-access
Applicable or Relevant and Appropriate Requirements (ARARs)	2.0	https://www.epa.gov/superfund/applicable-or-relevant-and-appropriate-requirements-arars
Environmental Programs Assistance Act (PL 98-313) (June 12, 1984)	2.1.1	https://www.gpo.gov/fdsys/pkg/USCODE-2009-title42/html/USCODE-2009-title42-chap55-subchapIII-sec4368a.htm
Title V of the Older Americans Act (1965) 42 U.S.C. § 3056 et seq.	2.1.1	https://www.doleta.gov/seniors/other_docs/owp-106-501.pdf
Transmittal of Sample Documents for More Effective Communication in CERCLA § 104(e)(2) Information Requests by Subject Category (June 30, 1995)	2.1.2	https://www.epa.gov/enforcement/superfund-104e-information-request-questions-category
Documentation of Reason(s) for Not Issuing CERCLA §106 UAOs to All Identified PRPs (August 2, 1996)	2.1.2	https://www.epa.gov/enforcement/guidance-documenting-reason-not-issuing-uao-all-identified-prps
Small Business Information Sheet (June 2017) EPA Publication 300-B-17-001	2.1.2	https://www.epa.gov/compliance/small-business-resources-information-sheet
Superfund Program Implementation Manual (SPIM) Fiscal Year 2017	2.2.1	https://www.epa.gov/superfund/superfund-program-implementation-manual
Timing and Procedures for Review of Certain Time-Critical Removal Actions by EPA Headquarters Offices (February 26, 2013)	2.2.1	https://www.epa.gov/enforcement/guidance-hq-review-certain-time-critical-removal-actions-timing-and-procedures

Chapter 2 References		
Name	Section	Location
Checklist of Information to Include for Consultation on Time-Critical Removal Actions by the Office of Site Remediation Enforcement" (July 8, 2015)	2.2.1	https://www.epa.gov/enforcement/checklist-consultation-time-critical-removal-actions
Privacy Policy CIO 2151.1 (September 14, 2015)	2.3	https://www.epa.gov/privacy/privacy-policy-cio-21511
Confidentiality of Business Information, 40 C.F.R. Part 2, Subpart B	2.3	https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=40:1.0.1.1.2#sp40.1.2.b
Freedom of Information Act (Reference Guide), 5 U.S.C. § 552 <i>et seq.</i>	2.3	https://www.epa.gov/foia/guide.html
Privacy Act, 5 U.S.C. § 552a <i>et seq.</i>	2.3	https://www.gpo.gov/fdsys/pkg/USCODE-2010-title5/pdf/USCODE-2010-title5-part1-chap5-subchap11-sec552a.pdf