



Preliminary Compilation of Possible EPA Activities to Engage Communities in Superfund Enforcement

Under the Community Engagement Initiative (CEI), the EPA has prepared a preliminary compilation of possible activities for involving the public in Superfund enforcement. The table below provides a summary of the activities. The complete report is available from the CEI website at <http://www.epa.gov/communityengagement.html>. The EPA is interested in receiving input from external stakeholders (including communities, potentially responsible parties (PRPs), and state, tribal and local governments) about these possible activities and any others that might prove beneficial. Information on providing input to the draft report is also available from the CEI website.

Superfund enforcement cases vary greatly and there's no one-size-fits-all when it comes to activities for involving the public in such cases. Case teams would continue to exercise discretion and consider employing these ideas only as appropriate given the specific circumstances of their particular site.

POSSIBLE ACTIVITY	DESCRIPTION
Solicit information from the public for the PRP search	Actively solicit information from the public as to the identity of PRPs and/or information about their waste-handling practices. <ul style="list-style-type: none">- Place advertisements in local newspapers asking former employees to call an EPA toll-free number and provide information on the company's disposal practices- Community involvement coordinators (CICs) interviewing community members for their views on the cleanup can also ask about possible PRPs- EPA investigators can canvass door-to-door in order to obtain information about PRPs
Require PRPs to assist with EPA's community involvement efforts	The EPA's settlements and unilateral administrative orders (UAOs) for a remedial investigation/feasibility study (RI/FS) and remedial design/remedial action (RD/RA) typically contain provisions that obligate PRPs to provide assistance, at the Agency's request, with community involvement efforts. The EPA personnel can invoke these provisions and direct the PRPs, e.g., to establish a community information repository near the site and/or to prepare information for dissemination to the public.

POSSIBLE ACTIVITY	DESCRIPTION
Issue site-specific fact sheets that explain the settlement negotiations	Case teams can issue fact sheets about upcoming/ongoing negotiations in order to “de-mystify” the enforcement process for the public. The fact sheets can explain in general terms what topics would be covered by the negotiations and, more importantly, what topics would not be covered. This can help reassure communities that the EPA does not negotiate cleanup standards or the decision as to what the cleanup will entail with PRPs behind closed doors.
Distribute EPA’s generic fact sheet on the Superfund enforcement process and/or present EPA’s generic workshop on Superfund	The EPA Headquarters has prepared a generic fact sheet titled, “The Superfund Enforcement Process: How It Works.” CICs can make hard-copies of this fact sheet, along with other general background materials about the Superfund program, available at public meetings. CICs can also present a generic workshop that explains the basics of the Superfund program, including enforcement.
Give the public an opportunity to comment on a proposed AOC for RI/FS or removal	After PRPs sign an administrative order on consent (AOC) for RI/FS or removal, the EPA can solicit public comment on the proposed settlement before deciding whether to sign it and have it take effect. (To date, the EPA has done this in only rare situations.)
Put the RI/FS or removal settlement agreement in the form of a judicial consent decree	Unlike administrative agreements, judicial consent decrees are required to go through a public comment process and a review by an independent third party (i.e., the district court judge). This practice can be useful in situations where the community wants assurance that the EPA and the PRPs have negotiated at arms’ length. (Similar to above, the EPA has done this in only rare cases.)
Explicitly reserve EPA’s right to seek modifications to AOC in light of later public comments	In an administrative settlement agreement, the EPA can explicitly reserve its right to seek modifications to the AOC in the future in the event that it receives public comments that disclose facts or considerations which indicate that the AOC is inappropriate, improper, or inadequate. (Again, the EPA has done this only in rare instances.)
Conduct outreach to solicit public input on proposed settlements	The EPA can aggressively seek public input on proposed settlements (e.g., AOCs for RI/FS and removal, lodged consent decrees for RD/RA, cost-recovery settlements that provide resources for future response work). The Agency can, e.g., issue a press release or make statements at public meetings alerting the community to the opportunity to review and comment on proposed settlements before they are finalized.

POSSIBLE ACTIVITY	DESCRIPTION
Have the Community Involvement Plan reviewed by the Regional attorney	Ensure that the community involvement plan (CIP) is reviewed not only by the Region’s technical staff and community relations personnel but also by the Regional attorney assigned to the case. The Regional attorney is sometimes well-positioned to identify opportunities for PRP participation (subject to EPA oversight) in the community involvement activities. While the EPA personnel are encouraged to review the CIP throughout the cleanup, they are required, at a minimum, to review the initial CIP before the RI/FS (or non-time critical removal (NTCR)) and then re-visit the plan before the RD.
Make draft deliverables submitted by PRPs available to the public	PRPs are typically required to provide drafts of various documents (e.g., work plans for RI/FS or RD) to EPA for review. Typically with the PRPs’ consent, the Agency can publicly share the initial drafts or the drafts that have undergone a preliminary EPA review.
While negotiations are ongoing, hold public meetings on technical issues	The EPA’s settlement negotiations with PRPs are usually conducted in confidential sessions. While negotiations are ongoing, the two sides can meet with the public to discuss technical issues.
Remind public that PRP activities are subject to EPA oversight and approval	EPA’s fact sheets about ongoing response activities can note that the Agency is overseeing the PRPs’ activities to ensure that they are being performed correctly. The fact sheets can provide information about EPA’s reviews of PRP-submitted plans and the changes to such plans as the result of the Agency’s reviews.
Include settlement provisions for Technical Assistance Plans	The EPA can include technical assistance plan (TAP) provisions in settlements (typically employing the Superfund Alternative Approach). Such provisions obligate the PRPs, at the EPA’s request, to arrange at their own expense for a community group to obtain the services of an independent technical advisor and share information with others in the community.
Seek public input on possible Supplemental Environmental Projects	Noncompliance with a Superfund-related obligation can give rise to claims for Superfund penalties. In negotiating a settlement for such penalty claims, EPA can sometimes negotiate a provision for a supplemental environmental project (SEP). The EPA can seek public input on ideas for a possible SEP in a particular case (or even in a specific geographic area even though noncompliance hasn’t even occurred yet).

POSSIBLE ACTIVITY	DESCRIPTION
<p>Facilitate the process of making site information available (for potential citizen-suit plaintiffs or other members of the public)</p>	<p>The EPA can facilitate the process of making relevant site information available to potential citizen-suit plaintiffs or any other interested community member. It can do so, e.g., by routinely adding relevant documents to the site file and/or posting documents in on-line “reading rooms” on Agency websites. The EPA is currently piloting an effort involving posting on-line information identifying the next steps in certain cleanups and the schedule for their implementation</p>