



United States Department of the Interior

Office of the Secretary
Washington, D.C. 20240

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PEP - ENVIRONMENTAL COMPLIANCE MEMORANDUM NO. 10-7

To: Heads of Bureaus and Offices

From: Michaela E. Noble, Director /s/ 11/19/18
Office of Environmental Policy and Compliance

Subject: Policy and Procedures for Prioritization of Contaminated Sites

PURPOSE

The Office of Environmental Policy and Compliance (OEPC) is issuing this Environmental Compliance Memorandum (ECM) under the authority provided by 381 Departmental Manual Chapter 4.5B to convey instructions and guidance as it relates to the environmental compliance responsibilities of the Department of the Interior (Department). The OEPC has the delegated authority to provide “leadership and direction in the coordination and development of environmental policy and program evaluation.”

This ECM establishes a strategic approach for prioritizing cleanup and/or restoration at sites on Department-managed land or where natural resources for which the Department is a trustee have been injured. By implementing the approach outlined in this document, the Department will promote consistency, transparency, and accountability within the Departmental Programs, Bureaus, and Bureau Programs that fund the cleanup and restoration of contaminated sites, as well as ensure that funding decisions are aligned with relevant Department and Bureau mission objectives and trust obligations. It also supports the use of common language and increases coordination among Departmental and Bureaus Programs with responsibilities associated with Contaminated Sites. This approach will be aligned with the Department’s Comprehensive Inventory of Contaminated Sites.

This ECM applies to all Department Programs and Bureaus with responsibilities for cleanup and/or restoration of Contaminated Sites impacting land or natural resources under the Department’s jurisdiction, custody, or control, as well as on non-Department-managed lands where the Department’s resources have been injured.

DEFINITIONS

- a. Bureaus - Major organizational units within the Department of the Interior carrying out specific operating programs, and, as necessary, maintaining field operating units. Such organizational units may have one of the following designations: bureau, office, service, administration, or other designations established by law.
- b. Bureau Heads - The senior leadership of a Bureau, such as the Director or Commissioner.
- c. Contaminated Sites - Contaminated sites include land managed by, or natural resources under the stewardship or trusteeship of, the Department that are injured or otherwise adversely affected by a release or threatened release of a hazardous substance, petroleum, pollutant or contaminant, as those terms are defined under Federal law.
- d. Cleanup - The multi-disciplinary actions necessary to address a contaminated site.
- e. Core Priorities - These are factors that the Department has determined must be considered when Programs and Bureaus develop their Strategic Prioritization Frameworks.
- f. Environmental & Disposal Liabilities (EDL) - EDL is part of the financial reporting process. It is defined as, “An anticipated future outflow or other sacrifice of resources where, based on the results of due care, further study or cleanup is warranted due to past or current operations that have contaminated Department assets. In accordance with OMB Circular A-136, *Financial Reporting Requirements*, EDLs comprise two types of financial liability: environmental remediation liabilities, and asbestos cleanup liabilities. These liabilities are reported separately as EDL on the Balance Sheet but are disclosed separately in notes to the financial statements on the Agency Financial Report (AFR).” See the Department’s EDL Handbook for more information.
- g. Legal Obligation - Includes, but is not limited to, statutory and/or regulatory language, litigation directives, court orders, and legally binding agreements.
- h. Mission Priorities - Priorities outlined in the Bureau and Offices’ missions or strategic plans that are not stated in the Department’s Strategic Plan because they are unique to the specific Bureau or Office.
- i. Programs - Programs within the Department of the Interior and bureaus with responsibility to address contaminated sites. Examples include, but are not limited to, the Central Hazardous Materials Fund (CHF) and the Natural Resource Damage Assessment and Restoration (NRDAR) programs.

- j. Risk to Human Health - An estimate of the nature and probability of adverse health effects in humans who may be exposed to chemicals in contaminated environmental media, now or in the future.
- k. Risk to the environment (also known as ecological risk) - An evaluation of how likely it is that the environment may be adversely impacted as a result of exposure to one or more environmental stressors such as chemicals, land change, disease, invasive species and climate change.
- l. Secretarial Priorities - Includes, but is not limited to, Secretarial Orders, the Department's Strategic Plan, as well as initiatives or other directives that come from the Secretary of the Interior and the leadership team. These documents can typically be found on the Department's website.
- m. Strategic Prioritization Framework - A transparent, strategic decision-making process that incorporates Department Core Priorities and Bureau-specific Mission objectives in allocating resources among contaminated sites.

GUIDANCE

- a. Programs and Bureaus shall develop Strategic Prioritization Frameworks (Frameworks) to prioritize the cleanup and/or restoration of Contaminated Sites.
- b. In developing these Frameworks, Bureaus are encouraged to develop an overarching Framework that incorporates all Bureau programs. If the Bureau head determines multiple Frameworks are appropriate and consistent with this ECM, a Bureau may develop program-specific Frameworks. If there are program-specific Frameworks, Bureaus must identify a process to coordinate, as appropriate, across the Bureau programs for consistency as well as efficiency of cleanup and/or restoration activities within the Bureau.
- c. The Program and Bureau Frameworks shall consider the following Core Priorities:
 - 1. Risks to human health and/or the environment;
 - 2. Legal obligations; and
 - 3. Secretarial and Mission Priorities.
- d. Once the Core Priorities are considered, Programs and Bureaus may consider other factors, such as Program- or Bureau-specific requirements, goals, or objectives, in their Frameworks.

- e. The following must be defined and documented in each Framework:
 - 1. The scope of the Framework, including but not limited to the Program, Bureau(s) and/or Bureau programs that are considered within the Framework.
 - 2. Eligibility criteria/requirements for a site to be considered for inclusion in the Framework.
 - 3. How the Core Priorities are applied within the Framework to include Secretarial/Mission priorities. Attachment 1 of this document is an example of the Central Hazardous Materials Fund (CHF) scoring matrix that identifies and weighs human health risk, environmental risk, and legal obligations. Such a matrix may be used as a qualitative input into the Framework.
 - 4. Any additional priorities/factors that are considered and how they are applied within the Framework.
 - 5. The organizational unit responsible for performing the prioritization process outlined in the Framework.
 - 6. The official responsible for approving the outcomes of the prioritization process.
 - 7. Include who will be responsible for entering in the bureau's prioritization results in the EDL database.
 - 8. The frequency for utilizing and updating the Framework.
- f. Programs or Bureaus must update any existing prioritization processes to incorporate the Core Priorities and additional instruction herein to make their process comply with this ECM.
- g. Programs and Bureaus shall coordinate, where appropriate, to improve efficiency, reduce costs, and achieve the best outcomes while addressing contaminated sites and resources.

RESPONSIBILITIES

- a. The Bureau Heads are responsible for ensuring that their Bureaus establish a Framework consistent with this ECM. Responsibilities for the development and implementation of the Bureau Framework may be delegated as appropriate.

- b. The Bureau Heads will provide a certification to the OEPC Director that the Framework developed for their Bureau is consistent with this ECM and addresses the Core Priorities contained in section II.C. If the Bureau head determines multiple Frameworks are appropriate for the Bureau and consistent with this ECM, he or she shall make this determination in the certification.
- c. Department Programs are responsible for establishing prioritization Frameworks consistent with this ECM and any relevant delegations and guidance as it applies to their implementation.
- d. Bureau regions and sub-units (e.g., parks, refuges) shall ensure that Contaminated Sites are included in the Department's Contaminated Sites Inventory and that the Bureau's Frameworks are followed. All eligible sites shall be reported in the EDL database with their prioritization ranking.

GENERAL

Authorities include 381DM4.5B, 207 DM 6 and 521 DM 1, 2, 3, 112 DM 4, 112 DM 30, 207 DM 7, the Comprehensive Environmental Response, Compensation, and Liability Act 42 USC 9601, et., seq., the National Oil and Hazardous Substances Pollution Contingency Plan, the Federal Water Pollution Control Act (Clean Water Act), the Oil Pollution Act, and the Resource Conservation and Recovery Act.

Attachment

cc: REOs

ATTACHMENT 1 - CHF Scoring Matrix

Below is the Central Hazardous Materials Fund Scoring Matrix. This matrix scores the human health and ecological risks of a site. It also scores several regulatory and responsible party factors. The possible score for each response is in the right-hand column. The total combined score generates the site's matrix score. This score may be used as a quantitative input into the Bureau's Framework, in addition to Bureau-specific Mission priorities and other factors.

SECTION I: HUMAN HEALTH AND ECOLOGICAL RISK (Select only one)

1. Human Presence

- | | | |
|--|--------------------------|---|
| a. Remote area; minimal potential for human contact | <input type="checkbox"/> | 0 |
| b. Intermittent human use | <input type="checkbox"/> | 1 |
| c. Area with regular employee and visitor traffic | <input type="checkbox"/> | 2 |
| d. High traffic area with employees and visitors | <input type="checkbox"/> | 3 |
| e. Work area with potential daily exposure to employees and Visitors | <input type="checkbox"/> | 4 |
| f. Residential or school use | <input type="checkbox"/> | 5 |

2. Environment

- | | | |
|--|--------------------------|---|
| a. No likely adverse impact to flora or fauna | <input type="checkbox"/> | 0 |
| b. Uncertain impact to flora or fauna | <input type="checkbox"/> | 1 |
| c. Known adverse impact to flora or fauna | <input type="checkbox"/> | 2 |
| d. Possible adverse impact to threatened or endangered species of flora or fauna | <input type="checkbox"/> | 3 |
| e. Known adverse impact to threatened or endangered species of flora or fauna | <input type="checkbox"/> | 4 |

3. Relative Toxicity of Contaminants

- | | | |
|---|--------------------------|---|
| a. Not toxic | <input type="checkbox"/> | 0 |
| b. Unknown | <input type="checkbox"/> | 1 |
| c. Systemic toxicant | <input type="checkbox"/> | 2 |
| d. Confirmed animal carcinogen with unknown relevance to Humans | <input type="checkbox"/> | 3 |
| e. Suspected human carcinogen | <input type="checkbox"/> | 4 |
| f. Confirmed human carcinogen | <input type="checkbox"/> | 5 |

- 4. Impacted Media (Soil, Sediment, Surface Water, Ground Water, Air)**
- a. Unknown 0
 - b. Soil Only 1
 - c. Soil and/or sediments only 2
 - d. Likely to impact 3 different media 3
 - e. Likely to impact 4 different media 4
 - f. Likely to impact 5 different media 5

- 5. Location of Site Relative to Surface Water (e.g., Lakes, Intermittent or Perennial Streams, Wetlands, Ocean)**
- a. Not close and incomplete pathway 0
 - b. Unknown 1
 - c. Close, but incomplete pathways 2
 - d. Close and possible complete pathways 3
 - e. Adjacent to surface water body, possible complete pathways 4
 - f. Complete pathway to water body 5

- 6. Aquifer Characteristics**
- a. Impacts to groundwater unlikely 0
 - b. Unknown groundwater uses or impacts 1
 - c. Drinking water source near site, but not within expected contaminant pathway 2
 - d. Known groundwater use by ecological receptors or livestock 3
 - e. Drinking water source known or likely to be within zone of influence of site contaminants 4

- 7. Current Site Risks Are Best Described As:**
- a. Likely within a reasonable timeframe to improve without further Action 0
 - b. Relatively static 1
 - c. Likely to worsen without further action 2
 - d. Represent an ongoing or imminent threat to human or ecological receptors 3

SECTION II: REGULATORY FACTORS DRIVING NEED FOR SITE FUNDING (Select only one)

- 1. Site Regulatory Violations Are Best Described As:**
- a. No violations have been cited 0
 - b. Likely to be resolved without further action 1

- c. Fines or enforcement action likely without further action at the Site 2
- d. An enforceable order is now, or will be, imposed 3

2. Federal Facility Status

- a. Site is not on the CERCLA Section 120 Federal Facility list, nor subject to a Federal Facility Agreement 0
- b. Site is listed as a CERCLA Section 120 Federal Facility, or subject to a Federal Facility agreement 2

3. Site CERCLA Response Role

- a. No defined CERCLA response role 0
- b. DOI has a support agency role 1
- c. DOI is the lead agency at the site 2

SECTION III: LEVEL OF PRP INVOLVEMENT (Select only one)

1. Is DOI actively pursuing enforcement against PRP(s) at the site pursuant to its delegated CERCLA authority?

- a. No current DOI technical or enforcement action 0
- b. DOI is currently negotiating, or has entered into, a UAO, AOC, CD, or other legally-binding document as a support agency 1
- c. DOI is currently negotiating, or has entered into, a UAO, AOC, CD, or other legally-binding document as lead agency 2

2. Have funds been recovered for past and/or future DOI response costs?

- a. No 0
- b. Enforcement action underway 1
- c. Past response costs only (full or partial) 2
- d. Future response costs (all of which have been expended) 3
- e. Future dedicated response costs (with a remaining balance in the CHF) 4

3. Has a PRP committed to perform response activities at the site pursuant to a legally-binding document (UAO, AOC, CD)?

- a. No 0
- b. Enforcement action underway 1
- c. Yes 2

SECTION IV: SECRETARIAL/MISSION PRIORITIES (Select only one)

1. Does this project meet one or more of the Secretarial Priorities?

- a. None 0
- b. Meets one of the Secretarial Priorities 1
- c. Meets two of the Secretarial Priorities 2
- d. Meets more than two of the Secretarial Priorities 3

2. Does this project meet one or more of the Office/Bureau Mission Priorities?

- a. None 0
- b. Meets one of the Mission Priorities 1
- c. Meets two of the Mission Priorities 2
- d. Meets more than two of the Mission Priorities 3

Total Accumulative Score _____

Please identify the Secretarial Priorities that this project supports:

Please identify the Mission Priorities that this project supports:

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