



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

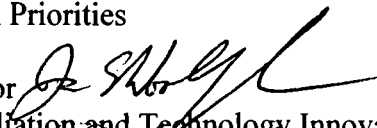
OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

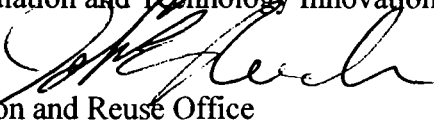
MAY 3 2007

OSWER # 9200.2-60

**MEMORANDUM**

**SUBJECT:** Five-Year Review Program Priorities

**FROM:** James E. Woolford, Director   
Office of Superfund Remediation and Technology Innovation

John E. Reeder, Director   
Federal Facilities Restoration and Reuse Office

**TO:** Superfund National Policy Managers, Regions 1 - 10

**PURPOSE:**

The purpose of this memorandum is to inform you of the results of the recent Office of Inspector General (OIG) Audit Report on the Five-Year Review (FYR) program and highlight our FYR program priorities.

**BACKGROUND:**

EPA has made significant progress to improve the five-year review program. We issued the *Comprehensive Five-Year Review Guidance*, conducted training in all Regions, significantly reduced the backlog of overdue FYRs, and pursued the development and implementation of a tracking system for FYRs within the CERCLIS 3 application. We also developed a comprehensive FYR web page with guidance documents, fact sheets, and an internet-based application that allows the public to search for FYRs conducted in their community.

We are currently conducting Superfund Regional Program Reviews in all ten Regions, and FYRs are one of the three program elements being reviewed. The FYR element will focus on summarizing Regional management practices for tracking and conducting FYRs, implementation of FYR recommendations, and the usefulness of FYR guidance and training. The program review also seeks to better understand Regional support needs and facilitate the sharing of FYR best practices nationwide.

We also are taking steps to better support and communicate review timeliness and findings, and provide greater assurance that cleanup actions are protective of human health and the environment.



## OFFICE OF INSPECTOR GENERAL (OIG) AUDIT REPORT:

The OIG recently completed an evaluation of FYR reports completed in FYs 2002, 2003, and 2004. Their review included reports from all ten Regions and focused on a select sample from five Regions. Management and staff from these Regions were interviewed and key documents and data supporting information presented in the FYR reports were evaluated.

In their report, the OIG emphasized that the Agency has made significant progress since the last OIG review in FY 1999. However, the OIG also identified additional areas for improvement to make our reviews more thorough, documented, and supported. Specifically, the OIG found that some reviews contained unsupported or incomplete protectiveness conclusions, limited information to implement report recommendations, and absence of supporting documentation. The OIG also highlighted the lack of a comprehensive FYR tracking system that adequately captures the status of FYR recommendations.

We communicated to the OIG that we started to address many of their concerns prior to the initiation of their review through improved communication with the Regions, increased draft document review by Headquarters, training, annual work planning, and improvements to the FYR module in CERCLIS 3. However, we agree with the OIG that improvements are still necessary to consistently fulfill the intent of the FYR program and ensure the public and Congress that our remedies are protective of human health and the environment.

## FIVE-YEAR REVIEW PROGRAM PRIORITIES:

### **Improve the Quality and Consistency of FYR Reports**

Headquarters Review – Since the last FYR priorities memo in FY 2001, OSRTI has selectively reviewed draft FYR documents for non-Federal Facility sites. Consistent with the OIG recommendation to further increase the scope of our quality assurance reviews, we are asking you to send all draft FYR documents to OSRTI or FFRRO, as appropriate, so that we can increase the number of documents reviewed in Headquarters. As most FYRs are due at the end of the fiscal year, we recommend that you space these reviews out earlier in the year to allow more time for resolution of any issues that come up during the review process. Headquarters should be given two weeks for document review.

Training – During the last eighteen months, FYR refresher training was offered in five of the Regions, in Headquarters, and at the National Association of Remedial Project Managers (NARPM) conference. The half day training covers the basics of FYRs, the types of reviews, when they are due, how to conduct a review, community involvement, site inspections, data evaluation and analysis, protectiveness determinations, and developing issues and recommendations. We continue to offer this training and encourage you to contact Headquarters to set up a training session in your Region. This training is also open to our State and Federal partners.

Protectiveness Determinations – To help promote national consistency, the FYR guidance provides recommended language for making protectiveness determinations. We strongly encourage the Regions to use this language, which is intended to make protectiveness determinations more clear and understandable. Each operable unit evaluated in the FYR normally should have a separate protectiveness determination. In addition, for sites that have reached the construction complete milestone, a site-wide determination typically should be made. It is a priority to issue protectiveness statements that are accurate, supported by available information, and consistent in format nationwide to the extent possible.

### **Continue to Involve the Community**

Community Involvement – It is essential that the Regions continue, as appropriate, to involve the community and document community involvement activities during the FYR process. The FYR guidance recommends various approaches for involving the community during the FYR process including notifications, interviews, and public meetings. Although the level of community involvement usually depends on a number of factors (including community interest), the guidance suggests that at a minimum, the community should be notified at the beginning of the process and at the end of the process.

As recommended in the FYR guidance, a public notice should be put in the local paper at the start and the completion of the FYR. Regions should work with Headquarters on a site-specific basis if the Region chooses to use alternative community involvement activities. In addition, Regions should use their discretion to determine the appropriate level of other community involvement activities. Headquarters recommends the Regions document in a memo to the site file any community notification activities.

### **Document Site Verification Activities**

Documentation – During the Regional visits by the OIG, they found that for 79% of the reviews they selected, supporting documentation was not available for one or more of the following FYR components, although the FYR referenced such activities:

- Public Notifications (25% of reports)
- Interviews (32% of reports)
- Site Inspections (64% of reports)

It is important for the Agency to maintain records of activities conducted to ensure the reviews are based on complete information. While this information does not necessarily need to be documented in the actual FYR report, we recommend that documentation be kept in the Region's site files for site inspections (site inspection checklist or trip report), interviews (details or summary notes), and public notifications (copy of the public notice or mailer).

## **Continue to Improve Timeliness of Reviews**

Review Timeliness – As noted in the OIG Report, the Regions have made significant progress in clearing up the backlog of overdue reviews and have considerably improved the timeliness of reviews. It is our priority to continue to complete reviews on time and accurately track due dates and completion dates in CERCLIS 3. Headquarters will continue to provide the Regions reports from CERCLIS 3 and review planning data during annual work planning meetings to ensure reviews are completed on time.

## **Track and Implement FYR Issues and Recommendations**

Issues/Recommendations – In addition to determining protectiveness of Superfund remedies, important outcomes of the FYR process can include the issues we find, the recommendations we make, and the implementation of follow up actions. It is essential that issues or recommendations that impact the current or future protectiveness of remedies are implemented in a reasonable timeframe and that those actions are tracked in CERCLIS 3. Branch Chiefs in each Region should continue to review the status of outstanding recommendations that affect protectiveness at least twice a year and update the status in CERCLIS 3.

## **Ensure CERCLIS 3 Accurately Reflects FYR Planning Information, Report Conclusions, and Current Progress on Implementing Recommendations**

Significant progress has been made in implementing the second generation CERCLIS 3 FYR module, which went live during the summer of 2006. Minor modifications and adjustments are currently underway and are expected to be finalized during the summer of 2007. As requested by the Regions, Headquarters contractors extracted information and populated CERCLIS 3 for FYRs completed in FY 2003 and FY 2004. The Regions were responsible for entering data into CERCLIS 3 beginning in FY 2005. Data quality is an ongoing effort and we have developed several audit reports for your use. Consistent with the observations made by the OIG, we have every expectation that the Regions will continue to maintain timely and accurate FYR data in CERCLIS 3, including but not limited to the following areas:

Planning Information – For each planned FYR, CERCLIS 3 allows Regions to specify the type of FYR (statutory, policy, or discretionary), the appropriate triggering action, and the FYR due date. It is important to ensure this data is accurate and up-to-date. This information allows us to track when five-year reviews are due and what action triggered the FYR requirement. The FYR type also helps inform which FYRs are included in the annual report to Congress. This information was first populated in CERCLIS 3 in FY 2004 using a historical database and data forms provided by the Regions. Although we have undertaken a data quality effort to correct erroneous planning information, we are relying on the Regions to continue to keep information up-to-date and report any problems to Headquarters.

Completed Five-Year Reviews – For each completed FYR, CERCLIS 3 captures protectiveness determinations, as well as any issues and recommendations in the FYR report. For each recommendation, an estimated completion date and implementing party should be identified consistent with the FYR report. We expect the Regions to enter this information within ten working days of the FYR completion date (signature date).

Implementation of Recommendations – To keep track of the implementation of recommendations, CERCLIS 3 captures recommendation status, planned completion date, and when the information was last updated or verified. CERCLIS 3 should reflect the original planned completion date from the FYR report and a comment entered if the current planned date of implementation is later than originally anticipated.

Reports – In coordination with the Regions, Headquarters developed a series of reports that the Regions can run to audit their data and summarize site-specific data. Headquarters is committed to updating the reports as necessary and working with the Regions to create additional reports as needed or requested.

### **Continue to Improve Coordination Between Headquarters and Regions**

Coordination – It is our goal to continue to improve our coordination with the Regions on FYRs. Both Headquarters and the Regions have five-year review coordinators (see attachment). We also have a national coordinator, a Federal Facility coordinator, and a CERCLIS 3 data sponsor. We are committed to continue our efforts with you and appreciate your day-to-day involvement with us, specifically in the following coordination activities:

- Draft document review
- National FYR Coordinators Quarterly Conference Calls
- Regional Branch Chiefs Calls and Meetings
- Regional Work Planning
- CERCLIS 3 application updates and data quality
- National meetings
- Regional FYR Refresher Training
- Superfund Regional Program Reviews

Thank you for your continued efforts in implementing and improving the five-year review program. If you have any questions, please contact Emily Johnson (OSRTI) at 703-603-8764 or Monica McEaddy (FFRRO) at 703-603-0044.

Attachment

cc: Susan Bodine, OSWER  
Barry Breen, OSWER  
Scott Sherman, OSWER  
OSRTI Managers

Debbie Dietrich, OEM  
David Lloyd, OBCR  
Matt Hale, OSW  
Gail Cooper, FFRRO  
Susan Bromm, OSRE  
Dave Kling, FFEO  
Mary-Kay Lynch, OGC  
Joanne Marinelli, Superfund Lead Region Coordinator, US EPA Region 3  
NARPM Co-Chairs  
OSRTI Documents Coordinator  
Emily Johnson, OSRTI  
Monica McEaddy, FFRRO

## Attachment

### Five-Year Review Coordinators

| Region | Regional Coordinator        | Headquarters Coordinator |
|--------|-----------------------------|--------------------------|
| 1      | Patti Ludwig                | Mike Hurd                |
| 2      | Dan Forger                  | Waleska Nieves-Munoz     |
| 3      | Chris Corbett               | Steven Chang             |
| 4      | Samantha Urquhart-Foster    | Ed Hanlon                |
| 5      | Stephanie Linebaugh         | Ernie Watkins            |
| 6      | Ruben Moya                  | Tracy Hopkins            |
| 7      | Pamela Samek                | Glynis Hill              |
| 8      | Rebecca Thomas              | Chuck Sands              |
| 9      | Cynthia Wetmore/Harold Ball | Waleska Nieves-Munoz     |
| 10     | Beverly Gaines              | Emily Johnson            |

National Coordinator: Emily Johnson

Federal Facility Coordinator: Monica McEaddy

CERCLIS 3 Data Sponsor: Katherine Garufi