



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 1 (NEW ENGLAND)**  
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**ENFORCEMENT UPDATE - BEEDE WASTE OIL SUPERFUND SITE**  
**FEBRUARY 2004**

**Progress on Site Cleanup**

EPA issued the *Record of Decision* (“ROD”), which documents the selected cleanup remedy for the Beede Site, on January 9, 2004. The ROD is similar to the proposed cleanup plan which was released for public review in June 2002. The cleanup plan includes the excavation and off-site disposal of about 80,000 cubic yards of shallow soil, including soil piles and a landfill, and a limited area of sediment. Soil deeper than ten feet below ground surface will be treated in place through a process known as vacuum extraction. Groundwater will be extracted and treated on-site to restore the aquifer.

The *Non-Time Critical Removal Action* continues to operate at the Site, removing mobile contaminated oil which is floating on the drinking water table. Over 80,000 gallons of contaminated oil have been removed from the water table to date. The system will continue to operate until the volume of mobile oil is reduced to acceptable levels, which must occur prior to commencement of the selected cleanup remedy.

Please refer to the ROD Fact Sheet, or the ROD itself, for more information about the remedy selection process and other remedy related developments. These and other site documents are available at [www.epa.gov/region01/superfund/sites/beede](http://www.epa.gov/region01/superfund/sites/beede).

**Past De Minimis Settlements**

EPA issued the first *de minimis* settlement offer to the smallest volume hazardous waste contributor parties at Beede in June 2001. The first settlement was made effective in November 2001 and included 496 of the approximately 680 parties who received the offer.

EPA issued the second *de minimis* settlement offer to a larger group of small volume hazardous waste contributor parties at Beede in May 2002. This second settlement was made effective in November 2002 and included 415 of the approximately 900 parties who received the offer.

EPA issued the third *de minimis* settlement offer to a small group of parties that raised ability-to-pay claims in conjunction with the second *de minimis* settlement in July 2003, and this settlement with 12 parties became effective in January 2004.

These three completed *de minimis* cashout settlements include smaller volume generator parties who contributed up to 5,000 gallons of hazardous waste to the Site, and the settlements have raised approximately \$6.2 million dollars for the Site, currently held in the Beede Site Superfund Special Account. The second *de minimis* settlement also raised about \$100,000 towards past costs for the New Hampshire Department of Environmental Services. In total, 923 parties have settled, representing nearly one-half of all the parties identified as PRPs at Beede. Many of the parties who took advantage of these early settlement opportunities are small and mid-sized businesses and municipalities.

### Upcoming De Minimis Settlement

With the ROD for the Site remedy in place, EPA is planning to issue a fourth non-negotiable *de minimis* cash-out settlement offer to another large group of generator parties this spring. The fourth settlement will be offered to eligible parties who generated up to 20,000 gallons of hazardous waste to the Site. This next *de minimis* settlement offer will be issued prior to commencement of negotiations for performance by the parties of remedial design/remedial action (“final” remedy negotiations) – giving another significant group of relatively smaller volume parties an opportunity for early settlement, and raising additional funds for the Site. **This will be the last planned *de minimis* cash-out settlement offer by EPA prior to the commencement of final remedy negotiations, and a critical opportunity for *de minimis* parties to resolve their Superfund liability and conclude their involvement with the Beede Site.** Note that eligible parties who choose not to settle (or participate in the ability-to-pay process described below) will need to negotiate with the larger volume parties at the time of cleanup.

### Future Negotiations with EPA

After issuance of the fourth *de minimis* settlement offer, EPA will prepare to initiate final negotiations for performance of the remedy (called remedial design/remedial action (“RD/RA”) negotiations). Typically, this process involves issuance of a letter by EPA soliciting a good faith offer for performance of the remedy set forth in the ROD (called “Special Notice”), and culminates in a final settlement agreement for the Site, memorialized in a consent decree. The invitation to participate in final negotiations will be issued to all parties identified by EPA as “Major” parties, “Transporters,” and “Owners/Operators,” and will also likely include *de minimis* generator parties who have not yet settled with EPA. Due to the large numbers of PRPs involved with this Site, EPA expects that those parties who have not yet settled their Superfund liability for the Beede Site will organize themselves into representative groups for participation in final remedy negotiations.

### **PRP Waste Quantity Reviews**

Along with issuance of liability notices to PRPs in June 2001, EPA offered to review PRP information upon written request. Since then, EPA has reviewed hundreds of requests for “waste quantity review,” and sent letters to over 200 parties. EPA focused its review on correcting “simple” mistakes – errors that were readily recognizable through visual review of the evidence. EPA completed the bulk of the process of waste quantity review in the spring of 2002, and does not plan to conduct additional reviews prior to final remedy negotiations. As noted in earlier communications, EPA will continue to defer consideration of requests for review that involve complex claims, including those requiring legal determinations.

### **Ability to Pay Claims**

With each *de minimis* settlement offer, EPA notified recipients that they can choose to submit an ability-to-pay claim to EPA for consideration, in lieu of settlement at that time, if they believe that they would face undue financial hardship by paying the full settlement amount offered. The Beede first and second settlement offers contained specific instructions on how to fully submit an ability-to-pay (“ATP”) claim to EPA for consideration. The Beede third *de minimis* settlement is, in fact, a settlement with 12 *de minimis* parties who chose to submit the full documentation necessary to support an ATP claim pursuant to the Beede second *de minimis* settlement. In the future, EPA expects that the ATP process will be an important option for parties with valid ability-to-pay concerns. The anticipated fourth *de minimis* settlement will contain specific information about the ATP process.

### **Next Steps**

EPA, in cooperation with the New Hampshire Department of Environmental Services, will continue to prepare for issuance of a fourth *de minimis* settlement round this spring, to be concluded in calendar year 2004. At the same time, EPA will begin preparing for final settlement negotiations for performance of the selected remedy. Parties who expect to participate in final remedy negotiations are encouraged to organize into representative groups, in preparation for these negotiations, which may begin late this year or in early 2005.

### **Additional Information**

To learn more about accessing public records concerning the Beede *de minimis* settlements, and the Beede selected remedy, as well as other information about the Beede Site, please call the toll-free Beede Hotline at 1-888-294-6980 or visit the Beede web site at [www.epa.gov/region01/sudefund/sites/beede](http://www.epa.gov/region01/sudefund/sites/beede).