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

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OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

OSWER Directive 9285.6-20

MEMORANDUM

SUBJECT: Changes to the Roles and Responsibilities of the Contaminated Sediments Technical Advisory Group (CSTAG)

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

TO: Superfund National Policy Managers, Regions 1- 10

Purpose

This memorandum supplements OSWER Directive 9285.6-08: "Principles for Managing Contaminated Sediment Risks at Hazardous Waste Sites", issued February 12, 2002, by defining the level of CSTAG involvement in the National Remedy Review Board (NRRB) review of proposed plans at large contaminated sediment sites. In addition, the CSTAG will now review all proposed Record of Decision (ROD) Amendments where the Amendment fundamentally changes the scope or performance of the sediment portion of the remedy that had been previously selected in the ROD, and the sediment portion of the original remedy was at least $50 million.

Background

Directive 9285.6-08 created the CSTAG, a technical advisory group to "monitor the progress of and provide advice regarding a small number of large, complex, or controversial sediment Superfund sites." There currently are 13 sites where the CSTAG has been involved and more are expected. That Directive, however, provided little guidance on how the CSTAG and NRRB would coordinate their reviews at sites subject to review by both groups. In 2004, the Office of Superfund Remediation and Technology Innovation issued Directive 9285.6-11 which described the coordination process between the NRRB and CSTAG for the review of CSTAG sites. That Directive stated:

"It is anticipated that the proposed remedy for most of the large Tier 2 sites being reviewed by the CSTAG will also meet the requirements for review by the NRRB. When a Remedial Project Manager (RPM) prepares the site package for the NRRB, the RPM should also prepare and submit to the NRRB and the CSTAG co-chairs a draft Tier 2 Consideration Memo. The memo should document how all 11 principles were considered in selecting the proposed remedy for the site and should normally be less than 20 pages. The CSTAG co-chairs will distribute the memo to the CSTAG members for their review. In order to avoid sending two sets of recommendations to the RPM, any CSTAG comments will be relayed to the Chair of the NRRB. At least two members of the CSTAG will attend the NRRB meeting (this can include NRRB members who are also CSTAG members) to offer assistance on site issues relative to the 11 principles."

Increased Role of the CSTAG at Especially Controversial Sites

For the CSTAG sites that are highly controversial and have unresolved technical issues, a new revised review process will be followed. For these sites, the CSTAG will hold a separate meeting with the Regional site team at least three months before the scheduled NRRB meeting in order to provide recommendations to the Region based on a CSTAG review of the draft Feasibility Study and other materials such as recent sampling results and modeling predictions. To conserve Regional resources, this meeting could be scheduled to coincide with the management review meeting that some Regions have at this stage of the remedy evaluation process. This technical review prior to the NRRB meeting should help identify and potentially resolve any key remaining technical issues prior to the NRRB meeting. Any comments related to this review will be considered pre-decisional and deliberative and will not be posted on the CSTAG web site. It is expected that the Region will consider these comments and address them prior to or during the NRRB meeting.

CSTAG Review of ROD Amendments at Costly Sites

For sites where the estimated cost of the *sediment* portion of the remedy in the ROD or Action Memo exceeds $50 million, the CSTAG will review all ROD Amendments that fundamentally modify the scope or performance of the sediment remedy; e.g., substantially increase or decrease the areas to be dredged or capped, or substantially change the sediment cleanup level. This also applies to those sites where the remedy was selected before formation of the CSTAG in 2002, i.e., sites that are not currently CSTAG sites. A new (for sites that pre-date the CSTAG) or an updated Consideration Memo [1] should be prepared and included in a review package prepared for the CSTAG. This package should be submitted to the CSTAG chair at least three months prior to the planned date for releasing the Proposed Plan for the ROD Amendment. This applies to all ROD Amendments, regardless of the size of the increase or decrease in sediment remedy costs compared to the estimate in the ROD. It is expected that for most sites, a CSTAG meeting would not be required; rather discussions will occur via conference calls.

[1] Information on preparing a Consideration Memo may be found at: http://www.epa.gov/superfund/health/conmedia/sediment/pdfs/guideline.pdf

Generally, the NRRB reviews proposed ROD amendments that trigger the review criteria ($25M) where there is a change from the original remedial strategy (e.g., moving from a containment remedy to a removal remedy). Generally, the NRRB does not review amendments that save money or where the increased costs are due to an increase in the volume of contaminated media addressed. At sites where the ROD Amendment also triggers review by the NRRB, the two groups will coordinate their reviews and send one set of recommendations to the Region.

Implementation

These two process changes: a CSTAG meeting before the NRRB meeting at large, complex or controversial sites; and the CSTAG review of ROD Amendments at costly sediment sites will be implemented beginning in Fiscal Year 2010. Appropriate members of the CSTAG and NRRB will review the Regional responses to all NRRB/CSTAG recommendations. The CSTAG and NRRB chairs will brief OSRTI management on the significance of any recommendations that were not adequately addressed. OSRTI management will work with Regional management to resolve any critical issues prior to issuing the Proposed Plan, or if the recommendations are not fully addressed in the Proposed Plan, before issuing the ROD or ROD Amendment. If you have any questions, please call Steve Ells at 703 603-8822.

cc: Mathy Stanislaus, OSWER
Barry Breen, OSWER
CSTAG Members
NRRB Members
OSRTI Managers
Brigid Lowery, CPA
Debbie Dietrich, OEM
Matt Hale, OSW
David Lloyd, OBLR
John Reeder, FFRRO
Marcia Mulkey, OSRE
David Kling, FEEO
John Michaud, OGC
Regional Branch Chiefs
Debbie Bishop, Superfund Lead Region Coordinator, US EPA Region 7