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Superfund/CERCLA: U.S. Environmental Protection Agency Memorandum Addressing "Greener Cleanup Activities" in the Superfund Cleanup Process

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The United States Environmental Protection Agency ("EPA") Director of Office of Superfund Remediation and Technology Innovation along with three other agency officials issued an August 2nd memorandum titled:

Consideration of Greener Cleanup Activities in the Superfund Cleanup Process ("Memorandum")

The *Memorandum* recommends approaches for regional remedial Superfund programs to consider when evaluating "greener cleanup activities" throughout the remedy selection process, including during response action selection and implementation.

The Federal Superfund or Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") was designed to cleanup sites or facilities where hazardous substances are released or potentially could be released into the environment. See 42 U.S.C. § 9601-9607. The statute provides EPA the authority to clean up sites where the "owner or operator" is either unable or unwilling to do so.

The recommended approaches identified by EPA include use of best practices or activities viewed as having a potential to reduce or mitigate potential environmental impacts when implementing response actions under CERCLA. Also, the EPA regions are encouraged to consider conducting a best practices or footprint analysis in using cleaner green cleanup activities throughout the CERCLA cleanup process.

The *Memorandum* emphasizes that it neither amends nor modifies the CERCLA National Contingency Plan. An example is provided by noting that consideration of greener cleanup activities should not be treated as a new criterion under 40 C.F.R. § 300.430(e)(9)(iii). In other words, greener cleanup activity should be carried out in a manner consistent with CERCLA National Oil and Hazardous Substances Contingency Plan and EPA guidance. The agency further emphasizes that the principles outlined in the Memorandum are not intended to trade cleanup program objectives for other environmental objectives.

The *Memorandum* is stated to supplement the agency's fact sheets and policy statements addressing greener cleanup activities, tools and considerations. It is intended to be utilized at fund-federal-facility and potentially responsible party-lead sites (i.e., principles are not intended to allow cleanups that do not satisfy threshold requirements for protectiveness, or do not meet other site specific cleanup objectives to be considered greener cleanup).

The *Memorandum* cites what it characterizes as “successful green cleanup practices” that can help achieve cleanup objectives by ensuring protectiveness, while decreasing environmental footprint of the cleanup activity itself as:

- Using equipment that emits less particulate matter into the air
- Sizing equipment accurately to avoid wasted energy, water, and material
- Using renewable energy or recycled material to decrease greenhouse gas emissions and conserve resources

Further, greener cleanup activities are stated to cover a broad range of approaches such as:

- Waste management
- Fuel conservation
- Greenhouse gas emissions reduction and water conservation

Recommended approaches outlined in the *Memorandum* include:

- Greener cleanup activities throughout the CERCLA process
- Conducting a best practices or footprint analysis
- Greener cleanup activities as part of the site characterization
- Evaluating and incorporating greener cleanup activities in the RI/FS or EE/CA
- Selecting and documenting greener cleanup activities in decision documents

The *Memorandum* includes two attachments. One attachment provides examples of CERCLA greener cleanup activities and what it characterizes as ways to reduce environmental footprints”. The second provides short-term effectiveness criteria.

[A copy of the Memorandum can be downloaded here.](#)