

# Chapter 2

## Emergency Response Progress

Throughout the 15-year history of Superfund, removal actions have successfully prevented, minimized, or mitigated threats to human health, welfare, or the environment. EPA and potentially responsible parties (PRPs) have initiated 3,971 removal actions to address threats posed by the release or threatened release of hazardous substances, including 311 undertaken in FY95. The expanded use of removal authority to more rapidly reduce risks posed by Superfund sites is a key element of the Superfund Accelerated Cleanup Model (SACM).

This chapter discusses the removal action process, the progress achieved through Superfund removals in addressing threats to human health and the environment, the contributions of the Environmental Response Team (ERT), and emergency response rulemaking and guidance development.

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### 2.1 Removal Action Process

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Removal actions are taken in response to a release or threat of release of a hazardous substance or of a pollutant or contaminant that may present an imminent and substantial danger to the public health or welfare. Examples of situations that may warrant removal actions include chemical spills or fires at production or waste storage facilities, transportation accidents involving hazardous substances, and illegal disposal of hazardous waste (midnight dumping). A removal action can occur at any point in the Superfund process. Managed by a federal On-Scene Coordinator (OSC), a removal action is often short-term, and addresses the most immediate threats. Removals comply with substantive applicable or relevant and appropriate requirements (ARARs) to the extent practicable, given the exigencies of the

situation. ARARs are substantive requirements of federal and more stringent state environmental laws.

When notified of a release or threat of release that may require a removal action, the Agency (or lead-Agency) conducts a removal site evaluation to determine the source and nature of the release, the threat to public health and the environment, and whether an appropriate response has been initiated. A removal site evaluation could be completed in minutes or months, depending on the specific incident and the information available to determine the need for a removal action. When the removal site evaluation is completed, the Agency reviews the results and other factors to determine the appropriate extent of a removal action. At any point in this process, EPA may refer the site for further evaluation or determine that no further action is necessary. When it concludes that a removal action is required, the Agency undertakes an appropriate response to minimize or eliminate the threat.

The Agency defines three kinds of removal actions based on the time available before a response action must be initiated. “Emergency” removal actions require a prompt response at the site. “Time-critical” removal actions are conducted when the Agency (or lead Agency) concludes that the action must begin within six months. For “non-time-critical” removal actions, the planning period may extend for more than six months; during this planning period, the lead agency conducts an engineering evaluation/cost analysis for the response actions and seeks public comment on the response options.

To document the selection of a response action, the Agency prepares an action memorandum that

states the authority for initiating the action, the action to be taken, and the basis for selecting the response. EPA also establishes an administrative record, compiling the documents that form the basis for the selection of the response action. The following sections discuss additional aspects of the removal action process, including community involvement, the role of the OSC, and CERCLA limitations on the scope of removal actions.

### **Community Involvement in Removal Actions**

EPA provides many opportunities for community involvement during the removal process. The Agency appoints an official spokesperson to keep the public informed of the progress of a given removal action. The administrative record file and index of documents maintained at the central location is made available to the public (except confidential portions) at a repository at or near the site and at EPA offices. If the removal action is expected to continue beyond 120 days, the lead agency must involve local officials and other parties in the process through such activities as community interviews and development of a community relations plan.

### **The On-Scene Coordinator**

The OSC organizes, directs, and documents the removal action. The specific responsibilities of the OSC include conducting field investigations, monitoring on-scene activities, and overseeing the removal action. The OSC is required to prepare the action memoranda including description of the need for a removal response, the proposed action, and the rationale for the removal for all fund-financed actions conducted under removal authority. In addition, if requested by the National Response Team, the OSC will prepare a final report that describes the site conditions prior to the removal action, the removal action performed at the site, and any problems that occurred during the removal action.

### **Fund-Financed Removal Action Statutory Limits**

Removal actions are generally short-term, relatively inexpensive responses to releases or threats of releases that pose a danger to human health,

welfare, or the environment. Accordingly, Congress included limitations on removal actions in CERCLA. The cost of a fund-financed removal action is limited to \$2 million, and the duration is limited to one year. Congress established exemptions from these limitations for specific circumstances. A removal action may exceed the monetary and time limits if:

- Continued response is required immediately to prevent, limit, or mitigate an emergency; there is an immediate threat to public health, welfare, or the environment; and such action cannot otherwise be provided on a timely basis; or
- Continued response action is otherwise appropriate and consistent with the remedial action (RA) to be taken.

During FY95, EPA granted 18 exemptions for removal actions to exceed the \$2 million limitation. In addition, EPA granted 25 exemptions allowing removal actions to continue for more than one year.

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## **2.2 Fiscal Year 1995 Progress**

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Since the inception of Superfund, the Agency and PRPs have begun 3,971 removal actions at National Priorities List (NPL) and non-NPL sites to address threats to human health, welfare, or the environment posed by releases or potential releases of hazardous substances. Under SACM, the Agency is expanding its use of removal authority to further expedite response, especially at NPL sites.

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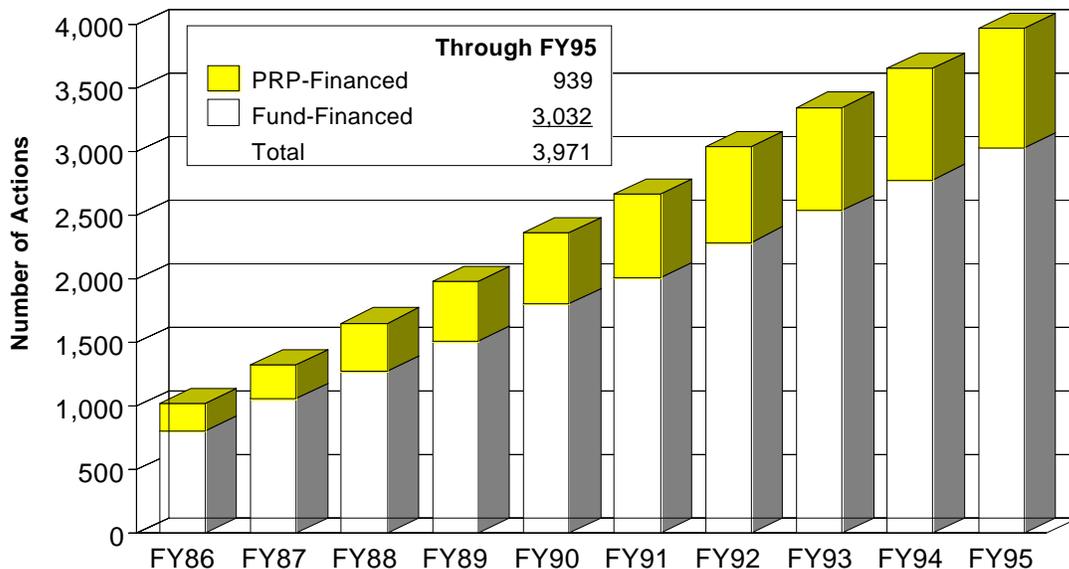
### **2.2.1 Status Report on Removal Progress**

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Of the 3,971 removal actions undertaken by EPA and PRPs under the Superfund program, 311 were started in FY95 (see Exhibit 2.2-1). Of these 311 removal actions, PRPs financed 59 and EPA financed 252. The removal actions started by PRPs included 20 removal actions at NPL sites and 39 removal actions at non-NPL sites. EPA started 33 removal actions at NPL sites and 219 removal actions at non-NPL sites. The 311 removal actions begun by EPA and PRPs in FY95 compared to 310 started in FY94.

As shown in Exhibit 2.2-2, EPA and PRPs have completed 3,348 removal actions under the

**Exhibit 2.2-1  
Cumulative Removal Action Starts**



Source: CERCLIS. October 10, 1995.

Superfund program, including 298 in FY95. Of the 298 removal actions completed during the fiscal year, PRPs financed 73, including 27 at NPL sites and 46 at non-NPL sites. EPA financed 225 of the completed removal actions, including 29 at NPL sites and 196 at non-NPL sites. The 298 actions completed by EPA and PRPs in FY95 compared with 240 completed by EPA and PRPs in FY94.

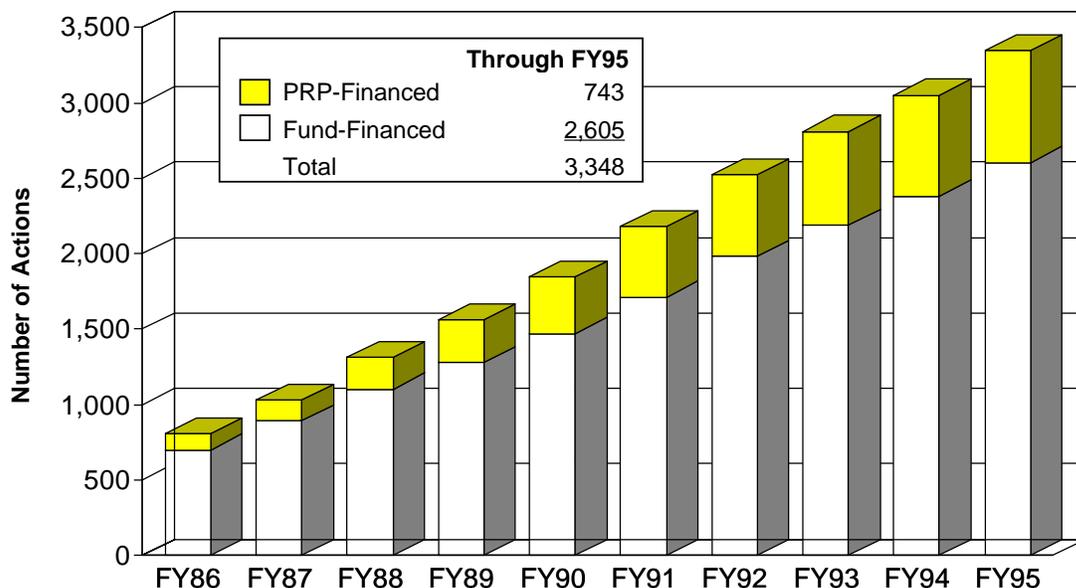
Removal actions that were begun but are not yet complete are considered “ongoing.” Ongoing removals include actions that have been in progress less than 12 months at the end of a fiscal year and removal actions that have been granted exemptions from the statutory one-year duration limit. Sites where a removal action has taken place, including thermal treatment, but the contaminants have not yet been transported to a disposal facility are also defined as having ongoing removals.

### 2.3 Environmental Response Team Activities

Under the National Oil and Hazardous Substances Pollution Contingency Plan, EPA manages the ERT. Over its 15 years of service, this team of EPA experts has been available to OSCs and Remedial Project Managers to support removal and remedial actions 24 hours a day, 365 days a year. In addition to its response support, ERT conducts introductory and intermediate-level training courses in health and safety and other technical aspects of response. ERT provides expertise in emergency response, hazard assessment, health and safety, air monitoring, alternative and innovative technology, site investigation, ecological damage assessment, cleanup contractor management, and oil and chemical spill control.

During FY95, ERT conducted approximately 157 Superfund responses and responded to 8 oil spills and 3 international incidents. ERT also offered 240 training courses nationwide.

**Exhibit 2.2-2  
Cumulative Removal Action Completions**



Source: CERCLIS. October 20, 1995.

## 2.4 Emergency Response Regulations and Guidance

Under the reportable quantity (RQ) regulatory program; the Agency proposed adjustments to certain RQs and to several administrative reporting exemptions. In addition, the Agency continued updating the Superfund Removal Procedures (SRP) Manual.

### 2.4.1 Reportable Quantity Regulations

Section 102(b) of CERCLA, as amended, sets an RQ of one pound for hazardous substances, except those substances for which different RQs have been established in Section 311(b)4) of the Clean Water Act. Section 102(a) of CERCLA authorizes EPA to adjust RQs for hazardous substances and to designate additional CERCLA hazardous substances.

Under CERCLA Section 103(a), the person in charge of a vessel or facility must immediately notify the National Response Center upon learning of a release of hazardous substance in a quantity that equals or exceeds its RQ. In addition to this reporting requirement, Section 304 of the Emergency Planning and Community Right-to-Know Act of 1986 requires that a release of a hazardous substance in a quantity that equals or exceeds its RQ (or one pound if a reporting trigger is not established by regulation) be reported to state and local authorities.

### Reportable Quantity Adjustments

On October 23, 1993, EPA proposed changes to the designation, RQs, and notification requirements for hazardous substances under CERCLA (58 FR 54836). The Agency took final action on these changes in a final rule dated June 12, 1995 (60 FR 30926). The final rule revised the table of hazardous substances to:

- Add 47 individual Clean Air Act hazardous air pollutants and adjust their statutory one-pound RQs;
- Add five other hazardous air pollutants that are broad generic categories of substances, assigning no RQ to the categories; and
- Add and adjust the RQs for 11 hazardous wastes listed under RCRA.

### **Reportable Quantity Exemptions**

On November 30, 1992, the Agency proposed a rule to codify four administrative reporting exemptions for naturally occurring radionuclide releases from the requirements of CERCLA Section 103. The proposal would exempt such releases from:

- Large, generally undisturbed land holdings, such as golf courses and parks;
- Disturbances of land for purposes other than mining, such as farming or building construction;
- The dumping of coal and coal ash at utility and industrial facilities with coal-fired boilers; and
- Coal and coal ash piles at utility and industrial facilities with coal-fired boilers.

The Agency has determined that administrative reporting requirements related to these releases serve no purpose. The rule is in accordance with the decision of the court in *Fertilizer Institute v. United States Environmental Protection Agency* 935 F.2d 1303 (U.S.App.D.C. 1991) wherein the court specified that the original promulgation of the exemptions in a final rule (54 FR 22524, May 24, 1989) did not provide sufficient notice and opportunity for public comment. The purpose of the November 30, 1992, proposal was to provide such notice and opportunity for comment. On March 5, 1993, at the request of several parties, the Agency reopened the comment period for an additional 60 days to provide greater opportunity for the public to evaluate the issues.

On August 4, 1995, in response to comments received on the four exemptions, the Agency proposed broader exemptions to the reporting requirements for release of certain naturally occurring radionuclides. In particular, it proposed exemptions for such releases associated with extraction activities of certain kinds of mines, and at coal and coal ash piles at all kinds of sites. At the request of commentors, on October 3, 1995, the Agency extended the comment period on the broader exemptions for an additional 60 days to give the public greater opportunity to evaluate the issues (60 FR 51765).

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### **2.4.2 Removal Guidance**

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The SRP Manual covers all procedural and administrative requirements for removal actions. It is used by OSCs; removal, remedial, and enforcement personnel; and staff from other federal and state agencies. In FY90, EPA began restructuring the manual into a series of 10 stand-alone volumes, each addressing a distinct aspect of Superfund removal actions. EPA previously completed five volumes of the series: *Consideration of ARARs During Removal Actions*; *Removal Enforcement Guidance for On-Scene Coordinators*; *Public Participation Guidance for On-Scene Coordinators*; *Action Memorandum Guidance*; and *Removal Response Reporting: POLREPs (pollution reports) and OSC Reports*. During FY95 the Agency initiated work on the remaining five volumes including: *State Participation in Federal-Lead Removal Actions*, *Response Management: Removal Action Start-Up to Close-Out*, and an overview volume.

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