

Chapter 2

Emergency Response Progress

Throughout the 16-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 4,238 removal actions to address threats posed by the release or threatened release of hazardous substances, including 267 undertaken in FY96. During FY96, the EPA continued to look for opportunities to expand the use of removal authority to rapidly reduce risks and speed the pace of overall cleanup at Superfund sites.

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.

2.1 Removal Action Process

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.

activities as community interviews and a community relations plan.

Community Involvement in Removal Actions

The On-Scene Coordinator

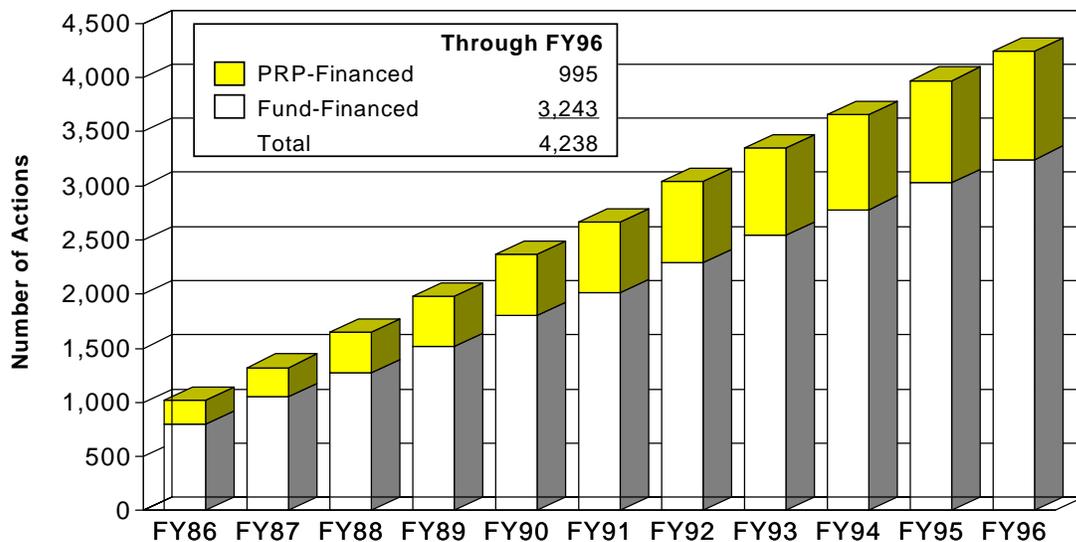
EPA provides many opportunities for community involvement during the removal process. The Agency appoints an official spokesperson to keep the public informed of the progress of a given removal action. The administrative record file and index of documents maintained at the central location is made available 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

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

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



Source: CERCLIS. October 24, 1996.

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 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 FY96, EPA granted 14 exemptions for removal actions to exceed the \$2 million limitation. In addition, EPA granted 15 exemptions allowing removal actions to continue for more than one year.

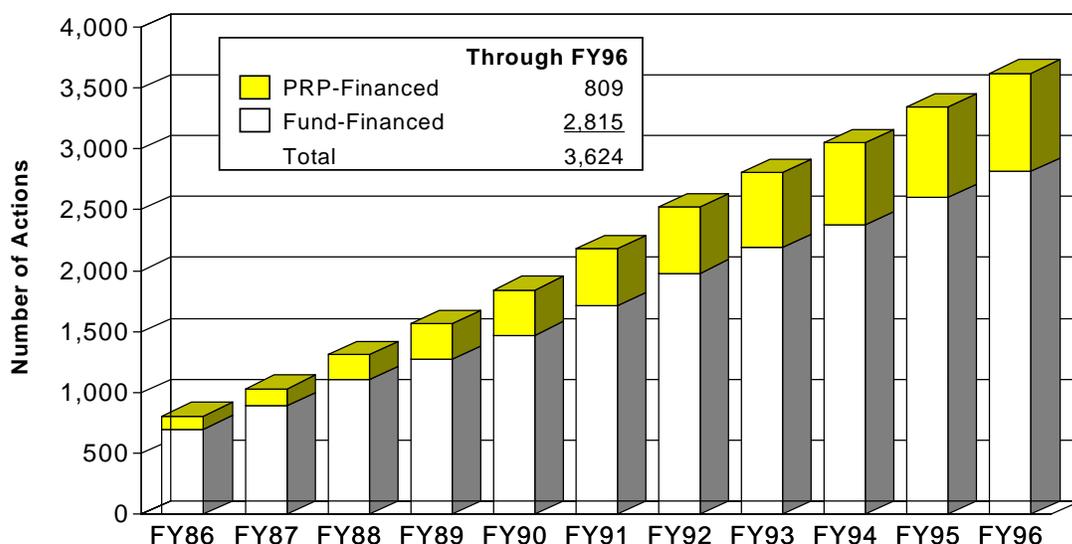
2.2 Fiscal Year 1996 Progress

Since the inception of Superfund, the Agency and PRPs have begun 4,238 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.

2.2.1 Status Report on Removal Progress

Of the 4,238 removal actions undertaken by EPA and PRPs under the Superfund program, 267 were started in FY96 (see Exhibit 2.2-1). Of these 267 removal actions, PRPs financed 56 and EPA financed 211. The removal actions started by PRPs included 13 removal actions at NPL sites and 43 removal actions at non-NPL sites. EPA started 29 removal actions at NPL sites and 182 removal actions at non-NPL sites. The 267 removal actions begun by EPA and PRPs in FY96 compared to 311 started in FY95.

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



Source: CERCLIS. October 24, 1996.

As shown in Exhibit 2.2-2, EPA and PRPs have completed 3,624 removal actions under the Superfund program, including 276 in FY96. Of the 3,624 removal actions completed during the fiscal year, PRPs financed 66, including 24 at NPL sites and 42 at non-NPL sites. EPA financed 210 of the completed removal actions, including 41 at NPL sites and 169 at non-NPL sites.

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 16 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 FY96, ERT conducted approximately 143 Superfund responses, and responded to 10 oil spills and 4 international incidents. ERT also offered 233 training courses nationwide.

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.

2.4.2 Reportable Quantity Exemptions

During FY96 the Agency reviewed and analyzed public comments on expanded exemptions from the reporting requirements of CERCLA Section 103 and EPCRA Section 304 for certain releases of naturally occurring radionuclides in preparation for promulgating a final rule on these exemptions. The expanded exemptions were proposed on August 4, 1995 (60 *FR* 40042). In that rule, the Agency proposed to grant reporting exemptions for releases of naturally occurring radionuclides associated with land disturbance incidental to extraction activities at certain kinds of mines, and coal and ash piles at all kinds of sites. The proposed exemptions were developed in response to public comments on a November 30, 1992 proposed rule on administrative reporting exemptions (57 *FR* 56726).

2.4.3 Removal Guidance

During FY96 EPA issued guidance entitled, *Questions and Answers on Release Notifications Requirements and Reportable Quantity Adjustments*. The guidance provides answers to common questions and concerns raised to the Agency by the regulated community and the general public. The purpose of the guidance was to promote a better understanding of CERCLA and EPCRA release notification requirements and the RQ adjustment process. Also during FY96, EPA completed the last draft of the guidance document, *Removal Response to Radiation Sites: Reference Document*. The guidance provides OSCs with references and a planning guide for conducting removal actions involving radioactive materials.

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