

Superfund Program Implementation Manual FY04/05
Appendix M: Removals
(Applicable to all OSWER Removals regardless of financing)

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**Appendix M
Removals**

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M.A. FY04/05 REMOVAL TARGETS AND MEASURES

M.A.1. OVERVIEW OF FY 04/05 REMOVAL ACTIONS TARGETS/MEASURES

The Superfund Comprehensive Accomplishments Plan (SCAP) is used by the Assistant Administrator for the Office of Solid Waste and Emergency Response (AA OSWER), Assistant Administrator for the Office of Enforcement and Compliance Assurance (AA OECA), and senior Superfund managers to monitor progress each region is making towards achieving the Government Performance and Results Act (GPRA) annual performance goals. In addition, SCAP will continue to be used as an internal management tool to project and track activities that contribute to these GPRA goals and support resource allocation. The program will set national goals based on historical performance and performance expectations within a limited budget for the performance goals in GPRA and track accomplishments in the activities contributing to those goals. Regions should continue to plan and report accomplishments in WasteLAN as they have traditionally.

To more clearly reflect the relationship between GPRA and the SCAP process, GPRA annual performance goals and measures and program targets and measures are defined as follows:

- GPRA Annual Performance Goals (APG) and GPRA Annual Performance Measures (APM)** - The Agency’s Annual Plan describes the specific annual performance goals, annual measures of outputs and outcomes, and activities aimed at achieving the performance goals that will be carried out during the year. APGs are the specific activities that the Agency plans to conduct during the fiscal year in an effort towards achieving its long-term strategic goals and objectives. APMs are used by managers to determine how well a program or activity is doing in achieving milestones that have been set for the year. The annual performance goals will inform Congress and Agency stakeholders of the expected level of achievement for the significant activities covered by the GPRA objective. The goals are a subset of the overall planning and budgeting information that has traditionally been tracked by the Superfund program offices.
- Program Targets and Measures** are activities deemed essential to tracking overall program progress. Program targets are used to identify and track the number of actions that each region is expected to perform during the year and to evaluate program progress. Program measures are used to show progress made in achieving program priorities.

The following pages contain the definitions of the FY 04/05 removal activities, GPRA annual performance goals, GPRA and program measures, and removal project support activities. Exhibit M.1 displays the full list of removal and activities defined in this Appendix. Exhibit M.2, at the end of this Appendix, lists the subject matter experts for each relevant subject area.

**EXHIBIT M.1
REMOVAL ACTION ACTIVITIES**

ACTIVITY	GPRA		PROGRAM	
	APG	APM	Target	Measure
Removal Starts	✓			
Removal Completions				✓

a. REMOVAL STARTS

Definition:

Removal actions are responses performed at NPL and non-NPL sites that eliminate or reduce threats to public health or the environment from the release, or potential release, of hazardous substances or pollutants or contaminants which may pose an imminent and substantial danger to public health or welfare. These risk reduction activities can be conducted as emergency, time-critical, or NTC removal actions. This measure tracks each removal action. The appropriate use of Special Account funds for removal actions is provided in the “Guidance on Key Decision Points in Using Special Account Funds” dated September 28, 2001.

Definition of Accomplishment:

A site is addressed by a removal action when the EPA, Response Action Contract (RAC), Emergency and Rapid Response Services (ERRS), State, or PRP, or their contractors, have mobilized for construction of the removal action specified in the Action Memorandum.

- **Fund-financed (Including F-, TR-, or S-lead) actions** - EPA, State or their contractors have begun work at a site for construction of the removal (emergency, time-critical, or non-time critical) as documented by a Pollution Report (POLREP). The date of on-site construction is reported in WasteLAN as the removal (Action Name = Removal Action) actual start date (Actual Start).
- **PRP- financed from a Special Account (Including Special Account Financed Action performed by EPA (SA-lead), the State (SS-Lead), or Tribal Government (ST-lead) actions ¹)** - EPA, State, tribal government or their contractors have begun work at a site for construction of the PRP-financed removal (emergency, time-critical, or non-time critical) as documented by a Pollution Report (POLREP). The date of on-site construction is reported in WasteLAN as the removal (Action Name = Removal Action) actual start date (Actual Start).
- **PRP-financed (Including RP- and MR- lead) actions under the terms of an AOC, UAO, CD, or judgment** - The PRPs or their contractors have begun work on-site for construction of the removal (emergency, time critical, or non-time critical) as documented in a POLREP AND the PRPs provide written notice of intent to comply with a UAO, or an enforcement instrument has been signed by EPA and the PRPs, or a judgment has been signed by a Federal judge.

The date of on-site construction is reported in WasteLAN as the removal (Action Name = PRP Removal) actual start date (Actual Start). The following information must be entered into WasteLAN for the enforcement instrument:

- The date the AOC (Action Name = Admin Order on Consent) was signed by the PRPs and the designated Regional official (Actual Complete), and the Response Acts Pd by Parties of “PRP Removal”; or
- The date (Actual Complete) the PRPs provide notice of intent to comply (Action Name = PRP Notfy EPA of Intent to Comply) with a UAO for a RP-lead removal signed (Actual Complete) by the designated Regional

¹Actions qualify for SA, SS, and ST leads, when the majority of the funding for the total estimated response cost (including direct and indirect costs) is to be paid from a Special Account. The amount contributed from a Special Account should meet or exceed the amount contributed by the largest non-PRP entity (i.e., EPA, State where applicable) toward the total estimated response cost at the site. For example for a removal action, if 60% of the funds needed to finance the estimated response are to be derived from a Special Account and 40% of the response costs will be paid out of Fund monies (or a lesser amount if State cost share is received), the majority of the response cost is being paid for out of a Special Account and the action qualifies for a SA, SS, or ST lead.

official (Action Name = Unilateral Admin Order), and the Response Acts Pd by Parties of “PRP Removal”; or

- The date the Regional Administrator signs the memorandum transmitting the CD (Action Name = Consent Decree) to DOJ or HQ and the Response Acts Pd by Parties of “PRP Removal”; or
- The date a judgment (Action Name = Judicial/Civil Judgment) was signed by the Federal judge (Actual Complete), and the Response Acts Pd by Parties of “PRP Removal.”
- ***PRP-financed (PS-lead actions) under terms of a State Order or decree*** - The PRPs or their contractors have begun work on-site for construction of the removal (emergency, time critical, or non-time critical) as documented in a Pollution Report (POLREP) and the State enforcement instrument has been signed by the appropriate State official.
- ***PRP-financed (RP-lead actions) emergency actions where no enforcement instrument exists*** - The PRP or their contractors have begun construction work on-site in response to an emergency incident, and EPA provides on-site technical oversight and/or is part of an incident command system/unified command (as documented in a POLREP). The date of construction is reported in WasteLAN as the removal (Action Name = PRP Emergency Removal), actual start date (Actual Start).

For both Fund- and PRP-financed removals, the following additional information must be entered into WasteLAN:

- The Critical Indicator classification of the removal [(1) Time Critical, (2) Non-Time Critical, or (3) Emergency];
- The media addressed through the removal (Media Type);
- The Media Name;
- The Response Action being conducted (Selected Response Actions);
- The response action cost data;
- The Institutional Control information; and
- The five year review information (at NPL sites only).

An endangerment determination should be documented when an Action Memo or Removal Action Decision Document or an enforcement instrument is prepared. Regions identify which of the documents contain the endangerment determination when they enter the actual completion date (Actual Complete) for the corresponding action into WasteLAN.

Changes in Definition FY 02/03 - FY 04/05:

Added requirements to be entered into WasteLAN for both Fund- and PRP-financed removals. **Removal measure were taken from Appendix B and moved to this new appendix to reflect the changes in responsibilities for removals. References to Coast Guard lead removals have been removed. Coast Guard lead removal starts are recorded non-site-specifically.**

Planning/Reporting Requirements:

Fund-financed removal, PRP removals under the terms of an enforcement instrument, and PRP emergency actions with no enforcement instrument starts will be tracked separately for management purposes. Removals are covered under the removal AOA. Removal starts and Emergency Responses (PRP emergency actions where no enforcement instrument exists) are a GPRA annual performance goal. **Removal start totals will not include Coast Guard leads. Coast Guard lead removals are recorded non-site-specifically in WasteLAN through the program management screen.**

b. REMOVAL COMPLETIONS

Definition:

Removal actions are responses performed at NPL or non-NPL sites that eliminate or reduce threats to public health or the environment from the release, or potential release, of hazardous substances or pollutants or contaminants which may present an imminent and substantial danger to public health or welfare. These risk reduction activities can be conducted as emergency, time-critical or NTC removal actions. This measure tracks each removal completion at a site.

DISCLAIMER: Regions will receive credit in the management of the Superfund program for “completion” of a removal action even though the removal action itself may not be complete for cost recovery statute of limitations purposes. Agency policy for statute of limitations purposes provides that a removal is not complete until EPA has made a final decision on whether any additional cleanup activity is required (and, if it is required, until EPA has both made a final decision on such additional activity and has completed the design for that activity). The date found in the removal action, actual complete column of a WasteLAN report is a programmatic measure only, and cannot be relied upon to create any rights, substantive or procedural, enforceable by any party in litigation with the United States. EPA reserves the right to change such data at any time without public notice.

Definition of Accomplishment:

Following are the conditions under which a removal is considered complete:

- A Fund-financed removal is considered complete when the actions specified in the Action Memorandum are met, OR when the contractor has demobilized and left the site (as documented in the POLREP) and recorded as the removal (Action Name = Removal Action) actual completion date (Actual Complete) in WasteLAN.
- A PRP-financed removal performed by the PRP under the terms of a Federal enforcement instrument, is considered complete when the Region has certified that the PRPs have fully met the terms of an AOC, UAO, CD, or judgment and have completed the actions specified in the Action Memorandum (as documented in the POLREP) and recorded as the removal (Action Name = PRP Removal) actual completion date (Actual Complete) in WasteLAN.
- A PRP-financed removal performed by the PRPs under the terms of a State enforcement document is considered complete when the State has certified the PRPs have fully met the terms of the instrument AND have completed the actions specified in the Action Memorandum (as documented in the POLREP) and recorded as the removal (Action Name = PRP Removal) actual completion date (Actual Complete) in WasteLAN.
- A PRP-financed emergency action where no enforcement instrument exists is considered complete when the OSC, in consultation with the unified command/incident command system if applicable, has determined that the emergency is stabilized (as documented in a POLREP) and recorded as the removal (Action Name = PRP Emergency Removal) actual completion date (Actual Complete) in WasteLAN.

In order to receive credit for a removal completion an endangerment determination must be performed. This endangerment determination may be documented in an Action Memo, Removal Action Decision Document or enforcement instrument. Regions identify which of these documents contain the endangerment determination by entering the actual completion date (Actual Complete) into WasteLAN.

For either Fund- or PRP-financed removals, an action qualifier (Qualifier) must be recorded to identify whether the action resulted in the site being “Cleaned Up” or “Stabilized.”

Action qualifiers are defined as follows:

- **Cleaned Up:** All threats have been addressed as defined in the Action Memo and the region determines that it has addressed all threats posed by the site (will not be returning for subsequent response activity). Also, all removal obligations and related work have been completed.
- **Stabilized:** All threats identified in the Action Memo have been addressed. The region may take additional removal actions as new threats are identified/investigatory information is available. Example: Leaking drums and contaminated soil in the area of the drums are excavated and disposed of in an approved off-site facility. Site is stabilized.

Exceptions:

Temporary demobilization and temporary storage on-site are not considered completions, unless temporary storage is the only action specified in the Action Memorandum to mitigate threats to public health, welfare, and the environment. Likewise, temporary off-site storage of hazardous substances at a Treatment, Storage, and Disposal (TSD) facility other than the facility of ultimate disposal is a continuation of the action, not a completion, unless temporary off-site storage at a TSD is the only action specified in the Action Memorandum. In addition, a removal would not be considered complete if:

- The Action Memorandum requires the EPA contractor to monitor the hazardous substances stored on-site or additional contractor expenditures are anticipated; or
- Hazardous substances are being stored at an off-site facility, other than the ultimate TSD facility required in the Action Memorandum.

A removal would be considered complete if:

- The scope of work for the action does not specify final off-site disposal of hazardous substances; the substances have been stabilized and are stored on-site due to circumstances such as the unavailability of a final treatment/disposal remedy; and no additional Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) removal authority funds are anticipated to be expended on this action. In this instance, no CERCLA removal authority funds will be expended for remedial-term site O&M. Any remedial-term site O&M (greater than 6 months) should be performed by the PRP or another agency (e.g., the State); or
- Hazardous substances are being stored off-site at the location of final disposal, and no additional contractor expenditures are anticipated for this action.

Changes in Definition FY 02/03 - FY 04/05:

Removal measure were taken from Appendix B and moved to this new appendix to reflect the changes in responsibilities for removals. References to Coast Guard lead removals have been removed. Coast Guard lead removal completions are recorded non-site-specifically.

Special Planning/Reporting Requirements:

Upon completion of a removal, an action Qualifier must be recorded to identify whether the removal resulted in the site being “Cleaned Up” or “Stabilized.” This is a program measure. Removal completion totals will not include Coast Guard leads. Coast Guard lead removals are recorded non-site-specifically in WasteLAN through the program management screen.

M.B Subject Matter Experts

The following exhibit identifies the subject matter experts for Appendix M, Removals.

EXHIBIT M.2 Subject Matter Experts

Subject Matter Expert	Subject Area	Phone #
Terry Eby	Removal Implementation	703-603-8741
Mark Mjoness	Removal Implementation	703-603-8727
Kevin Mould	Removal Implementation	703-603-8728
Charlotte Englert	Removal Financial	202-564-8888
Dana Stalcup	Removal Implementation	703-603-8735
Ray Worley	Removal Implementation	703-603-8724