



PRP Search Manual



Prepared for:
Personnel Performing PRP Searches



**United States Environmental Protection Agency
Washington, D.C. 20460**

August 20, 2003

Office of Enforcement and Compliance Assurance

MEMORANDUM

SUBJECT: Transmittal of the 2003 Potentially Responsible Party Search Manual

FROM: Susan E. Bromm, Director /s/
Office of Site Remediation Enforcement

TO: Superfund National Policy Managers (Regions I - X)
Regional Counsel (Regions I - X)

I am pleased to announce the distribution of the 2003 Potentially Responsible Party Search Manual (Manual).

The Manual was written by a dedicated group of Agency experts who are involved in the PRP search process, and reviewed by a national work group and the PRP Search Enhancement Team. Their collective effort has resulted in a useful tool that will enhance the PRP search process.

The Manual is a working document intended to provide information to those persons involved in the PRP search process. Users are encouraged to provide any comments regarding the Manual to one of the PRP Search Enhancement Team members/contacts (Team) listed below. Any changes that need to occur to the Manual due to new legislation, new policy or guidance and from relevant comments received, will be documented by the Team, and the Manual will be updated as necessary.

Procedures and information contained in the Manual are based on current, existing EPA policy and guidance. For the users' convenience, any references and/or guidance documents mentioned in the Manual are supported by a web-site address or hard copy.

Six (6) hard copies are being provided to Team members to distribute in their regions. The Team will now begin the process to place the Manual on-line. Future updates of Manual chapters will be available electronically.

If you have any questions or comments regarding this Manual, please contact Nancy Deck at 202/564-6039 (deck.nancy@epa.gov) or a PRP Search Enhancement Team member.

PRP Search Enhancement Team Members/Contacts

Region 1	James Israel and Barbara O'Toole	Region 6	Buddy Parr and Janice Bivens
Region 2	Carol Berns	Region 7	Cheryle Micinski and Dianna Whitaker
Region 3	Harry Steinmetz	Region 8	Dave Broste and Greg Phoebe
Region 4	Herb Miller	Region 9	Cliff Davis
Region 5	Doug Ballotti and Tom Marks	Region 10	Deborah Burgess

cc: Bruce Gelber, DOJ
Alan Carpien, OGC
Sandra Connors, OSRE
Paul Connor, OSRE
Mike Cook, OSRTI
David Kling, FFEO

Preface

The Potentially Responsible Party Search Manual provides an overview of the PRP search process, identifies tools for finding PRPs early in the process, and provides a framework for conducting thorough PRP searches that identify the universe of PRPs with comprehensive evidence of liability. It provides an outline of the general objectives of the PRP search, describes typical baseline and followup PRP search tasks, and provides specific tools and references from which the user may select those most appropriate for a particular search or site.

The manual may be used at "new" sites where PRP searches are planned, at sites where PRP searches are ongoing, and at sites where the PRP search was considered "complete" but additional tasks may need to be performed for settlement or cost recovery purposes. It is designed primarily as a reference tool for EPA, state, and tribal staff involved in PRP searches, and is **not intended to circumscribe or limit the legitimate investigative activities and inquiries of experienced PRP search staff.**

The manual is composed of four chapters: Overview of CERCLA and PRP Searches, PRP Search Planning Overview, Baseline PRP Search, and Followup PRP Search.

Chapter 1

Overview of CERCLA and PRP Searches presents an overview of CERCLA and CERCLA liability, the use of PRP search information, and general information about how and why the Agency gathers, exchanges, and manages PRP search information.

Chapter 2

PRP Search Planning Overview describes potential roles and responsibilities of parties involved in PRP searches, factors that should be considered in search planning, and opportunities for PRP input to the search process.

Chapter 3

Baseline PRP Search describes tasks most often performed during the initial PRP search.

Chapter 4

Followup PRP Search describes more specialized tasks that may be employed during a followup to the baseline phase in order to complete the PRP search.

Acknowledgments

This manual was prepared by the Office of Site Remediation Enforcement in EPA's Office of Enforcement and Compliance Assurance. The manual is a result of a collective effort by a national workgroup comprised of representatives from various Headquarters and Regional offices and the Potentially Responsible Party (PRP) Search Enhancement Team. Nancy Deck served as EPA's Project Manager and Neilima Senjalia as the Management Advisor. The PRP Search Enhancement Team guided and provided assistance throughout the revision process. The culmination of this teamwork is a manual which serves as a reference document and covers all aspects of the PRP search process.

The following persons provided significant input in the development, review or with specific chapters of the manual. Many thanks go out to these and all other persons who contributed.

PRP Search Manual Regional Work Group

David Kluesner (2), Joan Armstrong (3), Carlyn Prisk (3), Leo Mullin (3), Janice Bivens (6), Cheryle Micinski (7) and Cliff Davis (9).

National PRP Search Enhancement Team and Contacts

James Israel and Barbara O'Toole (1); Carol Berns (2); Harry Steinmetz (3); Herb Miller (4); Doug Ballotti and Tom Marks (5); Buddy Parr and Janice Bivens (6); Cheryle Micinski, Dianna Whitaker and Evan Carpenter (7); David Broste and Greg Phoebe (8); Elizabeth Domagalski and Cliff Davis (9); Deborah Burgess (10); Lisa Blum, Clarence Featherson, Nancy Deck (Team Leader), Neilima Senjalia and Monica Gardner (OSRE-HQ).

EPA Headquarters

Susan Boushell (OSRE), Linda Boornazian (OCFO), Alan Carpien (OGC), Ariadne Goerke (OGC), Tracy Gipson (RSD), Robert Kenney (PPED), David Kluesner (PPED), Ben Lammie (RSD), Robert Lindsey (PPED), Dela Ng (PPED), Mike Northridge (RSD), Ken Patterson (RSD), Bruce Pumphrey (OSWER), Debby Thomas (OC), and Gary Worthman (RSD).

Headquarters Contractor: DPRA Incorporated

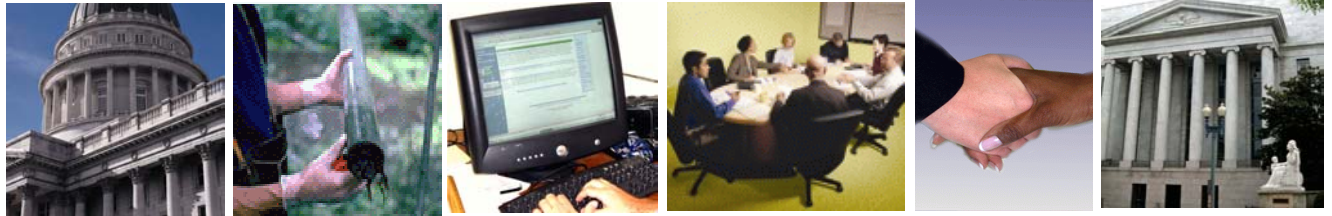
NOTE: The PRP Search Manual and future updates thereof will be available electronically on the EPA Internet. For availability of the electronic version and additional information, please contact Nancy Deck at 202/564-6039 (deck.nancy@epa.gov) or a PRP Search Enhancement Team member listed above and in Appendix H).

Disclaimers

This manual supersedes the PRP Search Manual, August 27, 1987 (9834.3-1A) and the PRP Search Supplemental Guidance for Sites in the Superfund Remedial Program, June 29, 1989 (9834.3-2a) published by the U.S. Environmental Protection Agency's former Office of Waste Programs Enforcement.

The policies, methods, and procedures set forth in this manual, and internal government procedures adopted to implement them, are intended as guidance for U.S. Environmental Protection Agency and other government employees. They do not constitute rulemaking by the Agency and may not be relied on to create a substantive or procedural right or benefit enforceable by any other person. The government may take action at variance with the policies, methods, and procedures in this manual.

When the term "**generator**" is used in this manual, it is not used in its most commonly understood sense, i.e., "a party that creates a material." The term has a broader meaning under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Refer to subsection 1.2.4, "Categories of Potentially Responsible Parties," which states that it is commonly used to designate an entity that generated a hazardous substance or arranged for its disposal or treatment. Thus the term "**generator**" can encompass corporations that have entered into disposal contracts, waste brokers, and corporate officers who are involved in, or responsible for, waste disposal.



1.0	Overview of CERCLA and PRP Searches	1
1.1	Review of CERCLA	1
1.1.1	Overview of Superfund Cleanup Process	2
1.1.2	Overview of CERCLA Enforcement	5
1.2	CERCLA Liability	6
1.2.1	Prima Facie Case	6
1.2.2	Strict Liability	9
1.2.3	Joint and Several Liability	9
1.2.4	Categories of Potentially Responsible Parties	11
1.2.5	Statutory Defenses to CERCLA Liability	15
1.2.6	Statutory Exemptions and Protections from CERCLA Liability	17
1.2.7	EPA's Discretionary Policies	29
1.3	PRP Notification of Liability	34
1.3.1	General Notice Letters	34
1.3.2	Special Notice Letters	36
1.3.3	Types of Settlements	38
	References	39
2.0	PRP Search Planning Overview	43
2.1	Roles and Responsibilities	46
2.1.1	PRP Search Team	46
2.1.2	Opportunities for PRP Input to the Search	54

2.2	Site Management Plan	68
2.3	PRP Search Plan	68
2.3.1	Timing and Duration	71
2.3.2	Streamlining Considerations	80
2.4	PRP Search Tasks	82
2.5	Document Filing and Retention and Release	91
2.5.1	Document Management	91
2.5.2	CERCLIS/WasteLAN	92
	References	94
3.0	Baseline PRP Search	97
3.1	Review Files and Collect Records	97
3.1.1	Federal Files	98
3.1.2	State Files	100
3.1.3	Local Government Files	101
3.1.4	Other Records	102
3.1.5	Special Planning Considerations	103
3.2	Organize Records and Track Correspondence	108
3.2.1	Organization	108
3.2.2	Correspondence Tracking	111
3.3	Issue Information Requests	113
3.3.1	Identify Recipients/Draft Information Requests	115
3.3.2	Mail and Track Information Requests	132
3.3.3	Analyze Responses	134
3.3.4	Develop Response Summaries	135
3.3.5	Information Request Followup	136

3.4	Conduct Interviews	137
3.4.1	Interview Considerations	138
3.4.2	Who Performs the Interview	143
3.4.3	Identifying Interviewees	144
3.4.4	Conducting Interviews	145
3.4.5	Interview Documentation	151
3.5	Perform Title Search	154
3.5.1	Determine Ownership Interests	154
3.5.2	Develop a "Title Tree"	156
3.6	Business Status and Financial Research	158
3.6.1	Introduction	158
3.6.2	Forms of Business Organization	159
3.6.3	Person	160
3.6.4	Business Organization	161
3.6.5	Sole Proprietorships	161
3.6.6	Partnerships: General Partnerships and Limited Partnerships	162
3.6.6.A	Elements Specific to a General Partnership	163
3.6.6.B	Elements Specific to a Limited Partnership	164
3.6.7	Corporations	165
3.6.7.A	Elements Unique to Corporations	167
3.6.7.B	Classification of Corporations	168
3.6.7.C	Evolution of Corporations	170
3.6.7.D	Sale of Stock in a Corporation	172
3.6.8	Indemnification Agreements	173
3.6.9	Other Entities	174
3.6.10	Additional Liability Theories	177
3.6.10.A	Direct Liability of a Person as an Operator or as a Person Who Arranged for Disposal or Treatment of Hazardous Substances	177
3.6.10.B	Corporate Officers, Employees, Directors, or Shareholders	178
3.6.10.C	Liability of Parent and Affiliated Corporations	179

3.6.10.D	Elements of Direct Liability	180
3.6.10.E	Piercing the Corporate Veil	182
3.6.10.F	Successor Liability	186
3.6.11	Financial Research	189
3.6.11.A	Corporation and Partnership Filings Required by States	190
3.6.11.B	County Filings and Other State Regulatory Agencies	191
3.6.11.C	Court Filings	191
3.6.11.D	Federal Sources	191
3.6.11.E	Corporate Directories	191
3.6.11.F	Credit Reporting and On-Line Services	192
3.7	Site Summary Development	192
3.8	Compile Waste-In Information	195
3.8.1	Transactional Databases	196
3.8.2	Waste-In Lists and Volumetric Rankings	198
3.9	Classify PRPs	205
3.9.1	Identify PRPs	205
3.9.2	Define PRP Category	206
3.10	Prepare Baseline PRP Search Report	208
3.10.1	Report Format and Content	208
3.10.1.A	Deliverable 1: Site Chronology and Property History	209
3.10.1.B	Deliverable 2: PRP Synopsis	210
3.10.2	Report Review and Distribution	211
Figure 1	212
References	215

4.0	Followup PRP Search	217
4.1	Issue Followup Information Request Letters	218
4.2	Compel Compliance with CERCLA Section 104(e)	220
4.3	Issue Administrative Subpoenas	223
4.4	Perpetuate Testimony Using Rule 27	226
4.5	Perform Ability To Pay Determinations	229
4.5.1	General Policy on Superfund Ability To Pay Determinations	230
4.5.2	ATP Information Sources	232
4.5.3	Performing Property Appraisals	238
4.6	Perform Insolvent and Defunct Determinations	241
4.6.1	Definition	241
4.6.2	Insolvent and Defunct Determinations	242
4.7	Perform Waste Stream Analyses	247
4.7.1	Industrial Surveys	247
4.7.2	Process Chemistry Analysis	247
4.7.3	Waste Stream Inventory	248
4.7.4	Mine Sites	249
4.8	Prepare and Review Interim Final Report	249
4.8.1	Interim Final Report Followup	250
4.9	Pursue Litigation and Cost Recovery	250
	References	257