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2.0 PRP Search Planning Overview



The primary purpose of the PRP search is to identify parties who may be liable under CERCLA. The PRP search is also designed to gather information establishing, for each PRP, the elements of liability discussed in the previous chapter. In addition, PRP searches can accomplish several other objectives, including:

- furthering site characterization by providing information on hazardous substances used, site boundaries, disposal practices, and locations for conducting sampling activities;
- providing information for;
 - notice letters and information release, and
 - a waste-in list in order to do a volumetric ranking,
- assessing the appropriateness of possible settlements and potential litigation risks in light of the PRP's liability, ability to pay response costs, and statutory factors such as de minimis settlement eligibility, mixed funding, orphan share compensation, and divisible harm;
- identifying whether wastes are hazardous wastes in order to assess potential applicable or relevant and appropriate requirements (ARARs) (see Chapter 2 references, page 94);and

- providing names of PRPs to;
 - ensure that the Agency can notify PRPs of the proposed plan (for remedial action), and
 - be included in community relations mailing lists.

Effective PRP searches are fundamental to the Agency's enforcement strategy of obtaining increased PRP involvement in conducting response activities. PRP searches initiated concurrently with the PA/SI can often yield information that can be used to better characterize the site, involve identified PRPs in finding other PRPs, and provide for earlier identification of de minimis, de micromis, and insolvent or defunct parties. Effective communication between site assessment and PRP search personnel can save sampling and characterization expenses and expedite the remedial process by identifying early action opportunities. A thorough PRP search ultimately should result in a faster, more efficient, and fairer settlement with PRPs, leading to a more timely cleanup of the site.

Where feasible and appropriate, EPA may share information with PRPs during the PRP search. EPA and PRPs may have a shared interest in the outcome of PRP searches, and cooperation may be mutually beneficial. Such cooperation may save Agency resources and assist in developing a good working relationship between PRPs and EPA. For instance, when EPA establishes early communication with PRPs by making available factual site information to help PRPs understand why they received an information request from the Agency, a more productive working relationship may develop. It is likely that the information

provided to EPA in response to the information request will be of better quality and thus may reduce the number of followup information requests. (See section 2.4 for further details on releasing information.)

Several themes that guide the Superfund program have increased the importance of information exchange among stakeholders. These include the focus on accelerating cleanups and conducting them in a more efficient manner; "enforcement first," which strives to increase PRP involvement in site response actions; and administrative improvements to the Superfund program, which include orphan share compensation and the use of third party neutrals to assist with information gathering and exchange.

Initiating community involvement activities as early as possible can also reap many benefits, including information on additional PRPs. Areas adjacent to most Superfund sites often contain a large number of residents who may have lived in the area for quite some time. Many of these residents have specific knowledge concerning the site and are usually very willing to discuss their observations. The local community should be routinely considered a potential source of information.

Achieving the Agency's goals of accelerating cleanups, increasing PRP involvement in response actions, and making settlements with PRPs fairer requires careful and coordinated planning of the PRP search. This planning process involves identifying key personnel involved in the PRP search, outlining their roles and responsibilities, determining timing and duration of PRP search

activities, and identifying tasks to be performed. The PRP search planning process should be a team effort. The PRP search plan ought to have been fully implemented before RD/RA negotiations commence.

2.1

Roles and Responsibilities

A regional person is generally assigned lead responsibility for overseeing each site-specific PRP search. Regions often task contractors to perform certain PRP search tasks to the extent that the tasks are not considered inherently governmental functions. Each of EPA's regional offices has its own unique structure in place for performing PRP searches. However, some general descriptions of key players and responsibilities cut across regional variations.

2.1.1

PRP Search Team



Management Team

In the past several years, there has been increased planning, coordination, and integration among remedial, site assessment, and removal staff, and increased dedication of resources to the "front end" of the Superfund timeline, i.e., the PA/SI phase. In some regions, this strategy has been facilitated by a standing management team of regional EPA decision makers. The purpose of such a team is to ensure appropriate and effective coordination, communication, and integration of Superfund responses, and adequate personnel, funds, and decision-making processes to accelerate site responses. With respect to PRP searches, management will generally take PRP search information into consideration when establishing priorities and direction for the site response. Although the management team

is not involved in the day-to-day management of the PRP search, it may request specific information about PRPs to determine the appropriate enforcement response, potential dollar needs for orphan share compensation, etc. Furthermore, it can play an important role in determining the appropriate sites to “front load” with resources for the PRP search.

PRP Search Manager

Some regions designate remedial project managers (RPMs) to oversee contractor performance of a PRP search. The search is done through a work assignment under an EPA enforcement support contract or interagency agreement with a sister agency. Other regions have organized PRP search sections devoted solely to performing PRP searches, using an appropriate combination of RPMs, OSCs, civil investigators (CIs), case developers, enforcement specialists, enforcement project managers, cost recovery specialists, and environmental protection specialists to manage PRP searches. The person designated as the PRP search manager for a particular site should ensure that she works closely with the attorney assigned to the site and with any other staff who may be participating in the PRP search. It is the responsibility of the PRP search manager to ensure that the following tasks are performed, as necessary and appropriate:

- establish PRP search priorities;
- establish PRP search strategy;
- develop PRP search work assignments, budgets, and schedules;

- manage contractor-conducted search tasks;
- define the scope of the search;
- review baseline, interim, and final contractor deliverables;
- introduce the contractor to state and local government contacts, as needed;
- issue information request, general notice, and special notice letters;
- ensure followup on all tasks necessary for conducting a complete search;
- implement quality assurance and quality control (QA/QC) procedures to ensure the accuracy of data gathered during the search;
- ensure that adequate information is gathered for special notice letters;
- ensure that adequate evidence of a PRP's liability and ability to pay is gathered; and
- ensure that the universe of PRPs is given an opportunity to provide input into the completeness of the Agency's PRP search efforts.

Remedial Project Manager

The RPM is the Agency official designated to coordinate, monitor, and direct remedial and certain other response activities at NPL sites. It is imperative that the RPM understand the Agency's policies and procedures for completing a thorough PRP search, regardless of whether the RPM is involved in performing it. Understanding the issues and tasks involved in the PRP search will be necessary when working with the PRPs during the RI/FS, engineering evaluation and cost analysis (EE/CA), or RD/RA negotiations. The RPM may serve as work assignment manager on a PRP search or assist other Agency personnel performing or overseeing the search.

One RPM responsibility is to oversee the PRPs' performance of response activities. Once PRPs have agreed to perform response actions at a site, the RPM is responsible for ensuring that the studies or cleanup activities are performed correctly and in accordance with the AOC or CD, CERCLA, the NCP, and relevant policy and guidance. RPMs are extensively involved with the PRPs during response actions, so it is very important that they play a prominent role in planning and conducting baseline and followup PRP search activities.

On-Scene Coordinator

The OSC is the Agency official designated to coordinate, monitor, and direct removal actions. However, at sites where remedial activity is ongoing, the RPM may play a key role in securing and overseeing PRP removal response. OSCs, like RPMs, need to understand the PRP search process whether or not they are

actively involved in the search itself. The nature and extent of an OSC's involvement in PRP search efforts will depend on the nature of the removal and urgency of responding to the release or threat of release. In addition to the PRP search manager tasks already identified, see subsection 2.3.1 for other PRP search-related tasks during removal actions.

Civil Investigator

The CI typically performs specialized PRP search tasks such as interviews with private parties and specialized investigative work related to waste disposal, PRP identification, etc. CIs may assist case attorneys in preparing CERCLA section 104(e) information request letters, reviewing evidence, and conducting interviews. In some regions, CIs work exclusively on either removal or remedial PRP searches. Potential advantages to this approach are that it allows the investigator to become familiar with the special types of investigative situations that each presents, prevents conflicts between the remedial and removal programs, and ensures an investigator's availability in cases involving time-critical removals.

PRP searches often involve complex evidentiary and legal issues. If PRP searches are conducted or managed by RPMs, OSCs, or other personnel not experienced in performing enforcement investigations, it is advisable to involve both enforcement staff and counsel in planning PRP search activities as well as in reviewing information obtained, contractor deliverables, and conclusions drawn.

EPA Attorney

The level of involvement of the case attorney in the PRP search may vary from region to region, site to site, and with the nature and number of legal issues associated with the site. RPMs, CIs, and other PRP search staff should seek to involve the case attorney as early as possible to ensure that collected information meets evidentiary standards and that the scope of the PRP search is appropriate. It is very important to seek and obtain attorney input regarding sufficiency of evidence questions, title searches, conducting interviews, definition of site, and classification of PRPs (e.g., de micromis, insolvent). In addition, most PRPs retain legal counsel to represent them throughout the conduct of the response action. Thus it is important that the regional case attorney, at a minimum, be involved in the critical PRP search planning and implementation milestones identified in the PRP search plan.

Contractor

As mentioned earlier, each region performs PRP searches in a slightly different manner, depending on the organization of the region, availability of staff with PRP search experience, number of PRP searches, and other factors. Most, if not all regions, however, utilize contractors in some capacity when performing PRP searches. Contractor support activities include establishing and maintaining PRP databases, performing title searches, preparing PRP search reports, and reviewing and compiling records. Contractors, however, cannot perform inherently governmental functions. Prohibited activities include liability determinations and issuance of information request letters. Regional contracting officers (COs) and project officers (POs)

should be consulted regarding the regional enforcement contract's scopes of work and its suitability for obtaining PRP search task support. (See Appendix B for a list of regional COs and POs.)



Financial Analyst

There are situations when specialized expertise is needed to make difficult ability to pay determinations, assess complex PRP financial records or business transactions, and evaluate bankruptcy claims. In these instances, regions may use in-house financial analysts (if available), EPA's National Enforcement Investigations Center (NEIC) staff expertise, or contractors with this expertise.

Use of SEE Personnel in PRP Searches

The Senior Environmental Employment (SEE) program was formally established through the Environmental Programs Assistance Act (June 12, 1984). (See Chapter 2 references, page 94.) Under this Act, EPA is authorized to enter into cooperative agreements (CAs) with certain private, non-profit organizations designated by the secretary of labor as organizations that are eligible to receive funds under Title V of the Older Americans Act (1965). (See Chapter 2 references, page 94.) The Act specified that individuals age 55 and older in temporary, short-term assignments can provide technical assistance to federal, state, and local environmental agencies for projects on pollution prevention, abatement, and control. Most, if not all, regions participate in the SEE program.

A SEE employee, although not an EPA employee, working for EPA in a PRP search investigative role could take on the following tasks:

- assisting in coordinating with other regional PRP search personnel to assure effective implementation of national investigative policy or guidance; and
- providing training or technical assistance on possible techniques and approaches to other personnel who are involved in fact finding or information gathering.

If SEE personnel are used to support PRP searches or investigations, they should have:

- general knowledge of criminal and civil provisions of environmental protection statutes, particularly the provisions of statutes governing the illegal generation, disposal, and transportation of pollutants, toxic substances, and hazardous materials;
- knowledge of investigation principles and techniques, including laws and decisions relating to investigative procedures; functions and jurisdictions of agencies; and the scope, application, and interpretation of laws enforced by EPA;
- skill in the use of investigative techniques to gather evidence to establish facts needed to make a case; and

- the ability to conduct interviews and draft interrogatories; recognize, explore, and utilize leads; detect less-than-evident discrepancies in information; prepare reports; plan, organize, and conduct investigations; and testify in legal, quasi-legal, or administrative proceedings. (SEE employees who conduct interviews must identify themselves as contractors.)

2.1.2

Opportunities for PRP

Input to the Search

Planning a PRP search involves identification of the roles and responsibilities of the key players involved in the PRP search effort. At some sites, PRPs may be key players in the PRP search process. Although EPA performs the primary PRP search functions, consideration should be given during the planning process to the potential benefits to the Agency of using PRP resources to accomplish certain search tasks, such as waste-in list development, allocations, corporate research, etc.

Since the inception of Superfund in 1980, a significant number of parties have participated in or conducted a variety of PRP search tasks in an effort to identify additional parties with whom response costs might be shared. In several instances, PRP resources and expertise have helped identify additional parties and accelerate the settlement process.

Background

This section provides guidance for facilitating timely and meaningful participation by PRPs based on regional and headquarters PRP search staff and case teams' experience and

analysis of the PRP search process. Recommendations for involving PRPs in the search process arose from the following:

- The National PRP Search Work Group, formed in early 1995. This work group's efforts resulted in several recommendations for enhancing the PRP search process.
- Superfund administrative reforms, including the PRP search pilot project, expedited settlement pilot, alternative dispute resolution (ADR) pilot, and allocations pilot. These reforms demonstrated that early involvement of PRPs can greatly benefit and facilitate the PRP search process.¹
- The National PRP Search Enhancement Team, formed in 1997, studied past and present regional search processes, and surveyed those involved in and with the case teams, including states, tribes, and other federal agencies. The team proposed enhancements for the search process based on the recommendations, lessons learned, and experience of those involved in the various cases.

¹ The first round of Superfund administrative reforms began in 1993, the second round in February 1995, and the third round in October 1995. *See* Chapter 2 references, page 94.

Specific findings that resulted from this experience and analysis include:

- PRPs often have access to specific information not readily available to EPA that may significantly expedite either site characterization (site history and chemical process information) or PRP status determinations (names, finances, and relationships). In addition, EPA may have information that could assist in PRP allocation efforts. This information was generally shared with PRPs following EPA's receipt and review of responses to CERCLA section 104(e) information requests, a point early enough to maximize use of the information and forge constructive working relationships with the PRPs.² In the case of confidential business information (CBI), the Agency must withhold information from PRPs.
- PRP steering committees can be utilized to coordinate and share information relevant to their site. Such constructive working relationships often lead to enhanced settlement opportunities and prevent delays during negotiations.

Potential Benefits of Involving PRPs in the Search

Involving PRPs in the search process allows them to provide information that helps EPA create a broader base of knowledge

² EPA has addressed the need for information exchange and sharing in *Releasing Information to PRPs at CERCLA Sites* (March 1, 1990), *Issuance of Interim Rule: Disclosure of Confidential Data to Authorized Representatives of the United States and Potentially Responsible Parties* (January 5, 1993), and other guidance documents. *See* Chapter 2 references, page 94. The interim rule applies only to the release of EPA's contractors' documents to PRPs, not to the release of other PRPs' documents.

and facilitates identification of PRPs. Regional experience has demonstrated that involving PRPs in the PRP search process:

- results in the identification of additional PRPs;
- leads to improved response action planning;
- leverages the resources of the PRPs, saving time and money for both the PRPs and EPA; and
- enhances the likelihood of settlement by;
 - narrowing the number of issues requiring resolution,
 - limiting the issues that PRPs may have among themselves, and possibly reducing the likelihood of third party litigation,
 - developing working relationships, and
 - developing relevant information leading to settlement.

Degree of PRP Involvement/Input to the Search

The Agency should provide PRPs the opportunity to participate in or provide input to the PRP search process. Recognizing that the degree of PRP involvement or input can vary greatly, this section

offers processes used and recommendations made by the regions for addressing the level of PRP involvement. The ultimate responsibility for bringing the PRP search to an appropriate conclusion lies with the Agency. It is the case team's responsibility to determine PRPs' degree of involvement in the search process.

While considering the potential nature and extent of PRP involvement in the search process, the case team should:

- determine the specific information needed from the search; and
- consider whether any PRP has an unfair advantage, bias, or position that would limit the availability of information to any other party.

When determining the level and type of input needed, the case team may be influenced by the following circumstances:

- confidentiality of information issues;
- the presence of third party tort issues or contribution litigation among the PRPs;
- the presence and level of cooperation that the PRPs have demonstrated;
- site-specific factors such as timing or large numbers of known PRPs; and
- status of interaction between EPA and PRPs at the site.

The tasks that the PRPs perform should be structured accordingly (e.g., identifying the categories of parties that EPA wants existing PRPs to focus on in their search activities). Some examples of tasks that have been successfully undertaken by PRPs can be found on page 67.

There may be instances where the case team determines that in order to avoid any appearance of bias, it is appropriate for the PRP to hire a neutral ADR professional to perform certain tasks instead of performing them itself, for example:

- facilitating information exchange among PRPs and between PRPs and EPA;
- allocating costs;
- testing settlement options;
- focusing issues;
- dispelling misconceptions;
- resolving misunderstandings; and
- helping create functional relationships.

Guidelines

Regardless of the level of PRP involvement or the tasks conducted by the PRPs, they should be made aware that the Agency will retain responsibility in the following areas:

- conducting and overseeing the PRP search;
- determining the timing and extent of the PRP search;
- deciding when and how to evaluate information submitted for EPA review;
- determining which parties will receive a CERCLA section 104(e) information request or notice letter;³
- determining which parties to name as PRPs; and
- determining the terms of settlement(s) with the identified PRPs.

Following are general guidelines to assist in determining when and how regions might benefit from PRP involvement in and input to PRP search activities:

- Begin the PRP search as early as possible, compiling baseline information regarding operation of the site and identifying the liability of the major viable PRPs. Identify to what extent the PRPs are to be involved, then invite the PRPs to be involved in the search process.

³ The OSRE memorandum Revised Final Guidance on Disseminating EPA's SBREFA Information Sheet to Businesses at the Time of Enforcement Activity (August 31, 1999) states that EPA will notify small businesses of their right to comment on regulatory enforcement activities when EPA makes its "initial enforcement contact" with the business. *See* Chapter 2 references, page 94. Under CERCLA, the initial enforcement contact is typically a general or special notice letter. *See* Chapter 2 references, page 95 for the Small Business Fact Sheet.

- Balance the goal of achieving fairness in the search process by involving PRPs with the need to keep the process manageable. EPA may request that input be channeled through organized groups of PRPs (e.g., steering committees) whose liability EPA has established.
- Ensure that the PRPs involved in the search process are in compliance with any CERCLA section 104(e) information requests issued to them and have committed themselves to supplement those responses in a timely manner as additional information becomes available.
- Determine which tasks the PRPs are capable of performing. Discuss their involvement in the search process with them. The PRPs can perform some tasks with EPA oversight, EPA and the PRPs can share some tasks, and EPA can reserve some tasks for itself. Reflect this agreement in writing, e.g., in a letter memorializing tasks, roles, authorities, and deadlines. Define the period during which PRPs may provide EPA with information on other parties, and clearly communicate that PRPs need to adhere to deadlines in order to avoid delays.⁴
- Communicate to the PRPs that;
 - The work they perform must be fully documented to support its completeness and accuracy. All supporting records and documentation must be submitted to EPA for

⁴Failure of the PRPs to meet agreed deadlines may result in EPA takeover of a task a PRP has agreed to perform, which may increase costs to PRPs. It also may result in information being obtained too late to be considered.

possible inclusion in the site's administrative record or use as evidence in federal court, as appropriate.

- The information submitted by them regarding other parties may be used by EPA for litigation and negotiation purposes, and therefore should not be submitted subject to protection under the Privacy Act (see Chapter 2 references, page 95) privilege, or a claim of CBI⁵ unless absolutely necessary. The information may qualify for protection under other laws. EPA should determine the nature of the material submitted and whether other laws apply as early as possible. This is particularly important to do if the information has been or will be exchanged among the PRPs. These issues can be complex and are best addressed on a case-by-case basis.
- All participating parties must have equal access to information.
- EPA should advise PRPs of its enforcement discretion policies.
- EPA should encourage use of ADR professionals to assist in information gathering and PRP identification efforts where appropriate.

⁵As defined in 40 CFR Part 2, Subpart B. See Chapter 2 references, page 95.

PRPs who participate in the search process should commit themselves to working with EPA in good faith for the duration of the search.

Identification of Additional Parties



EPA and PRPs have an interest in assuring that the list of PRPs is as complete as possible prior to the start of settlement negotiations and private PRP allocation efforts. Regions are encouraged to provide the previously identified PRPs with an equal opportunity to identify and propose other parties for consideration as PRPs.⁶ One way to accomplish this is by soliciting information on additional PRPs in the GNLs.

Generally, EPA should extend this opportunity in the GNLs, in writing. The letter extending the opportunity should:

- specify that PRPs must explain the legal and factual basis of identified parties' liability and submit supporting documentation;
- state that all waste-in lists submitted should explain all assumptions made in compiling them; and
- establish a deadline for submitting information so EPA has time to consider it for a particular purpose (e.g., issuance of SNLs).

⁶ The case team should build in time during the planning of response and enforcement actions to allow for the potential need for EPA to issue followup CERCLA section 104(e) information request letters to newly identified parties before EPA makes final PRP determinations.

The earlier in the PRP search process additional parties are identified, the better chance EPA has of getting existing and newly identified PRPs to participate in settlement negotiations.

As previously stated, EPA generally should invite the PRPs in writing, but the case team should decide how to extend the invitation in specific cases. Some options for extending the invitation include:

- making a verbal request to the owner or operator for information about other PRPs (generators, transporters, or other owners or operators) and documenting in writing any input provided, or taking an administrative deposition so that the sworn testimony can be provided to other PRPs;
- publishing newspaper advertisements and setting up telephone hotlines;
- identifying PRPs at emergency removal sites to resolve past Agency or PRP costs;
- using a more inclusive or formal process for longer-term response actions (PRPs should be asked as early as possible, e.g., at the beginning of the RI/FS or EE/CA to identify other PRPs); and
- extending the invitation at a meeting or via teleconference with individual PRPs or the PRP steering committee when time does not permit a written invitation.

Regardless of the process EPA uses to afford PRPs the opportunity to identify additional parties, EPA should document in writing the process used and the input received. One way of documenting the information is with signed first-person narratives obtained in interviews.

EPA is under no legal obligation to address information provided by PRPs identifying other PRPs or to advise them whether the new parties were determined to be PRPs, but EPA should provide some feedback or explanation as to why the newly identified parties were or were not named.⁷ Factors to consider in determining the appropriate response to PRPs when EPA determines the information provided by them cannot be considered may include:

- adequacy and timeliness of the information submitted;
- ability of EPA to respond in a timely manner; and
- the administrative burden of responding.

Additional Opportunities for Enhancing the PRP Search Process and Involving PRPs

Several cases and sites have incorporated the following to enhance the involvement of PRPs in the search process:

⁷Model CERCLA section 104(e) letters provide examples of questions for PRPs that relate to information concerning other PRPs. *See* Chapter 2 references, page 95 for sample information request letter questions. In addition, EPA personnel are required to document their decisions to exclude certain PRPs from any CERCLA section 106 UAOs that are issued, or not to issue UAOs to late-identified PRPs. *See* Chapter 2 references, page 95 for OSRE memorandum, Documentation of Reason(s) for Not Issuing CERCLA §106 UAOs to All Identified PRPs (August 2, 1996).

- using ADR professionals or neutrals to facilitate information gathering activities and communication among PRPs and with EPA (ADR professionals, e.g., mediators, allocation specialists, do not make determinations on the liability of PRPs or the appropriateness of Agency decisions on the use of information; rather, neutrals may be used to assist PRPs and EPA in designing and conducting information gathering or to support PRP efforts to organize these activities. Use of ADR professionals has proven particularly useful in assisting PRP involvement at early stages of the Superfund process and during PRP allocation activities.);
- using CERCLA section 104(e) information requests with questions designed to obtain information on additional parties related to a site and tailoring specific information requests to the type of PRP and his involvement at the site;
- establishing repositories of publicly available non-enforcement-sensitive site information, and developing databases to make site information accessible to widely dispersed parties; and
- interviewing people with knowledge of the site as early as possible.

**Information Provided and Tasks Conducted by PRPs
During Some PRP Searches**

PRPs may be sources of information. The types of information they provide may include:

- information for the preparation of waste-in lists;
- factual information for EPA to consider in determining who should receive CERCLA section 104(e) requests;
- information obtained from depositions taken by the PRPs in private contribution actions; and
- statements or affidavits of potential witnesses.

PRPs may engage in information search activities. Information search activities may include:

- performing or supplementing title searches;
- obtaining public documents from on-line searches and other sources;
- providing advice and documentation on industry-specific waste streams and process information;
- obtaining corporate records and providing factual information to support EPA determinations of corporate successorship and liability of parent corporations and corporate officers and directors;
- locating witnesses or other parties; and
- performing witness interviews and providing EPA with affidavits or investigative notes from interviews.

PRPs may participate in compiling and processing information and providing resources. Such activities may include:

- sharing information from in-house databases;
- managing document repositories;
- preparing volumetric rankings and waste-in lists and sharing the results, supporting information, assumptions, and methodologies with EPA; and
- funding neutral ADR professionals to assist in information gathering efforts.

NOTE: PRPs must never represent themselves as EPA personnel when performing PRP-search related tasks

2.2 Site Management Plan



Superfund sites often present enormous logistical, technical, and legal challenges. In order to properly mesh technical site investigations, PRP search activities, community involvement, PRP involvement, site cleanup activities, and cost recovery activities, a site management plan may be prepared. The plan helps identify the site activities as well as timing, resources, and milestones. The lead agency (EPA or the state) is responsible for developing the site management plan, which will most often be prepared by the lead remedial program technical person assigned to the site, usually the RPM. Development should be closely coordinated with the case attorney, management team, and any other necessary staff.

The site management plan should define the roles and responsibilities of individual team members as well as the role of management. The plan may describe each participant's activities and deliverables, objectives, and issues associated with the site, proposed schedule of events, and resource issues.

2.3 PRP Search Plan

The site management plan addresses the broader issues associated with the PRP search, such as timing, duration, and resource needs of the PRP search, whereas a site specific PRP search plan focuses on the "nuts and bolts" of how the PRP search will be conducted. The PRP search plan should be considered iterative in nature since it is not possible to predict with certainty all the types of information that may need to be gathered, the questions and issues that may develop during the baseline phase, or the followup tasks that will be necessary to complete the search.

Developing a PRP search plan consists of the following six tasks:

1. Developing a plan for managing the PRP search, including the baseline search, issuance of information request letters, additional search tasks, investigative strategy for identifying generators and transporters, followup on additional work that may occur due to any data gaps that may develop during the search, and evidence reviews;
2. Identifying sites or issues that may require specialized strategies, staff, or contractors with specialized skills, such as;
 - municipal landfills,
 - battery recycling sites,
 - area-wide groundwater contamination or stream contamination where sources are not apparent,
 - remote sites, e.g., where one company owned or operated multiple sites and transshipped wastes between them, or
 - mining sites, particularly those that are very old or involve districts and large watersheds,
3. Defining roles and responsibilities for all members of the PRP search team;

4. Identifying review points for assessing the direction and thoroughness of the PRP search;
5. If resources exist and there is a need for specialized support, developing a detailed scope of work to obtain contractor support, with provisions for phased deliverables, realistic due dates, and assignment of a work assignment manager to provide technical direction to the contractor, review deliverables, and assist with contract management;
6. As appropriate, including opportunities for PRP involvement in the PRP search, e.g., language in information request letters requesting PRP nominations or information, questions in witness interviews, tasks which PRPs may perform or in which they may participate.

PRP search plans should not be confused with PRP search work plans. Work plans are documents prepared by contractors which detail work to be performed by the contractor and identify proposed staff in response to a scope of work prepared and issued by EPA or another contracting agency.

To ensure that the PRP search plan addresses potential legal, technical, community involvement, and policy issues that may be associated with the PRP search, the PRP search manager should include all EPA staff working on the site (CI or other investigative staff, RPM, OSC, site assessment manager (SAM), community involvement coordinator, attorney) in the development of the plan.

2.3.1

Timing and Duration



EPA initiates PRP searches once it is reasonably certain that EPA will incur response costs. PRP searches may be performed in phases, with a preliminary PRP search initiated during or immediately after a removal response, or near the conclusion of the PA/SI, before a site is proposed for listing on the NPL. The objectives of a preliminary PRP search may include: 1) identifying the current site owner or operator in order to determine whether she is capable of or willing to perform actions to stabilize conditions at the site; 2) learning more about potential hazards that may be encountered and require a response; or 3) gaining access to the site. Once a removal response has been completed or the site has been proposed for listing on the NPL, a more extensive PRP search will be undertaken. In practice, depending on resources and the urgency of site response actions, there may or may not be a break between the preliminary PRP search and the more extensive PRP search.

PRP search activities are generally iterative, rather than discreet, especially at more complex sites. For example, at a watershed contaminated by mining activity where there are hundreds of waste piles or discharging mine adits that could be sources, the PRP search team may wait until technical staff have determined which waste piles or adits will require a response before undertaking extensive ownership and operational history research. In such situations, the region may choose to have a contractor conduct research on archive, library, and government agency records for all individual mines and mills within the site, but initiate title searches for individual mine properties only when a response action for the facility is being planned.

A PRP search may be considered complete when, in the best judgment of the site team, the following factors have been satisfied:

- all relevant and material leads from CERCLA section 104(e) responses, interviews, and other primary or source documents have been pursued;
- PRPs have been afforded opportunities to participate in or contribute to the PRP search, and the information has been verified and/or authenticated and incorporated in the PRP search;
- sufficient information and evidence have been obtained to support the government's liability case, or determine that no viable PRPs exist or can be found; and
- ability to pay determinations have been made for those PRPs who have asserted inability to pay in good faith.

The following two sections provide a more detailed discussion of the timing and duration of PRP searches at removal and remedial sites.

Removal Searches

When PRPs are known and are able to perform the removal, EPA prefers that they undertake the response action. PRPs currently undertake approximately 20 percent of all removals. EPA's goal is to maximize PRP participation in the removal process, which means PRP searches in the removal context are increasingly important.

A PRP investigation should be part of the preliminary assessment that an OSC conducts under NCP section 300.410. (See Chapter 2 references, page 95.) An important reason for initiating a PRP search at this point is to identify and locate the property owner(s) in order to obtain access. To the extent appropriate under the circumstances, the search should proceed to identify other PRPs and attempt to have them perform the necessary removal action. If the removal is conducted with federal funds from the Superfund, supplemental searches during a stabilization action may be warranted to identify PRPs to take over the action and reimburse EPA's response costs.

The level of effort of the PRP search tasks in the removal context depends on the amount of time between discovery of the release or threatened release and execution of the action memorandum, the urgency of the release or threatened release, the likely expenditures on the removal, and available resources.

EPA classifies removals into three categories:



1. Emergency Removals

Emergency removals are initiated in response to a release or threatened release that requires on-site activities within hours of determination that an action is needed.

In emergency situations where the PRPs are not immediately known, the PRP search is often conducted in two phases. Initially, oral inquiries are made of municipal officials and reasonably available on-site personnel, and reviews of readily available site records are undertaken. This also may be an

appropriate time to interview neighbors and adjacent businesses. Activities include documenting, photographing, or photocopying visual evidence linking PRPs to the site, including drum labels, shipping records, and vehicle registrations, and notifying either the regional office that handles criminal investigations or the National Enforcement Investigations Center (NEIC) if criminal activity is suspected.

An expedited work assignment (see Appendix C) may be used through the Superfund Technical Assistance and Response Team (START), the Superfund Enforcement Support Services (SESS), or other available contract vehicles. The OSC should prioritize and expedite certain search activities to support the notice, negotiation, and AOC process before the removal begins. This may mean notifying PRPs orally of their potential liability after consulting with the Office of Regional Counsel (ORC) and following up with a notice letter as soon as possible after the oral notification. Once the site is stabilized, a second, more extensive phase of PRP identification should commence.

2. Time-Critical Removals

Time-critical removals are initiated when the lead agency determines, based on a site evaluation, that a removal action is appropriate and on-site activities must be initiated within six months.

In time-critical situations, the OSC should follow procedures that expand upon the PRP search activities discussed for emergency situations. Title searches and on-site interviews also should be

conducted. CERCLA section 104(e) information requests that include questions pertaining to generators and financial viability may be used to obtain additional evidence.

3. Non-Time-Critical Removals

Non-time-critical removals (NTPCRs) are initiated when the lead agency determines, based on a site evaluation, that action is appropriate but a planning period of more than six months is available before on-site activities must begin. NTPCRs are often managed by RPMs.

PRP searches for NTPCRs are expected, generally, to obtain the same level of PRP information that would be gathered during a PRP search at a remedial site. As in remedial searches, followup activities should be completed in time for SNLs. Typical NTPCR PRP search tasks include:

- reviewing EPA, state, and local agency files for information regarding land use, owners and operators, waste handling, and disposal permits;
- questioning of persons on or near the site in greater detail;
- conducting extensive on-site and off-site interviews;
- reviewing documents left on site, e.g., manifests (generator information), business records (business partners, financial status, etc.), payroll records (former employees who may have information about generators, operators, or on-site waste disposal);

- conducting title searches; and
- obtaining historical aerial photographs.

Many traditional pre-remedial site assessment tasks provide information needed for the PRP search. These tasks need not be duplicated by the PRP search staff. Appendix D contains a checklist that was developed to assist early on-site responders (OSCs, SAMs, RPMs, etc.) in documenting valuable information on PRPs and site conditions. To avoid duplication of these tasks, early on-site responders should fill out the checklist as completely as possible and forward a copy to the regional CI or enforcement staff person conducting the PRP search, put a copy in the site file, and provide a copy to the case attorney.

Remedial Searches



Remedial sites typically require comprehensive PRP searches that may be performed in two or more phases. Search activities should begin as soon as the region believes that the site is “NPL-caliber” and that a long-term response is appropriate. NPL-caliber sites include those involving:

- contaminated aquifers used for public drinking water;
- soils in residential areas or schools contaminated with hazardous substances significantly above background levels; and
- sensitive environments, with threatened or endangered species, containing hazardous substances significantly above background levels.

Timing and duration goals for remedial searches should be to:

- identify a sufficient number of viable PRPs concurrently with the NPL listing of a site to negotiate performance of the RI/FS;
- identify and classify PRPs such that EPA can offer de minimis parties a settlement prior to conclusion of the RI/FS (pre-ROD);
- identify the full universe of PRPs, including insolvent and defunct parties, prior to issuance of RD/RA SNLs;
- identify the insolvent and defunct parties so that an orphan share can be calculated, if appropriate, and the number of viable PRPs for negotiations can be established; and
- identify and classify other parties, such as de micromis and MSW contributors, parties with ability to pay problems, etc., prior to issuing SNLs.

Proof of liability may be more complex at old sites with limited documentation. With potentially numerous and complex legal and technical issues to address at remedial sites, a phased approach to the PRP search should be considered. A phased approach may initially yield a core group of financially viable, capable, and cooperative PRPs with whom EPA can negotiate performance of the RI/FS. EPA may then continue PRP search efforts, perhaps with assistance from the PRPs, while the core group of PRPs is performing the RI/FS.

Followup activities to the initial phase of a remedial search will be highly site-specific and may be dictated by leads developed from preserved evidence or sampling and response activities. On one hand, relatively straightforward enforcement sites, such as owner/operator sites, may only require a few interviews as followup to evidence preservation activities in order to establish PRP liability and determine ability to pay. On the other hand, complex enforcement sites, such as recycling operations, area-wide ground water sites, and landfills typically require more comprehensive followup activities that may include a large number of information request letters and interviews and development of transactional databases.



For planning purposes, regions should identify a general period of two to five quarters for conducting PRP searches, with more time allowed for complex, multi-generator sites. Some complex sites, such as those with area-wide ground water contamination with multiple sources of hazardous substance releases or stream sediment contamination, may require specialized tasks that extend through the RI. Where enforcement staff and resources allow, a baseline PRP search report should be completed 90 days before the start of the RI/FS, and the interim final PRP search report should be completed at least 90 days prior to issuing RD/RA SNLs. PRP search starts and completions are two of the program measures currently being used to track overall program progress.

Recommended activities for a thorough PRP search are:

- initiating a dialogue with early-identified PRPs to provide an opportunity for PRP input to the PRP search;

- collecting the financial and waste contribution data needed to perform PRP orphan share calculations;
- following up on all leads to identify parties at the site;
- obtaining the information necessary to make de minimis and de micromis determinations;
- categorizing all parties (e.g., generator/transporter, owner/operator, de minimis/de micromis); and
- performing a financial viability determination of all PRPs asserting inability to pay.

Even if a PRP search is deemed complete, EPA may undertake additional search activities. This is likely to be the case when followup search activities are needed to support the Agency's cost recovery efforts against non-settlors or at sites with Trust Fund-financed cleanups. For instance, additional information request letters can be sent to a facility's suppliers during cost recovery litigation in an effort to obtain more evidence about the facility's waste. If EPA is engaged in ongoing litigation (e.g., cost recovery), PRP search personnel should coordinate closely with the assigned attorney in issuing any such information requests. Although strong precedents support the claim that EPAs administrative information gathering authorities are separate and distinct from the civil discovery process, it would nevertheless be prudent for case teams to carefully consider their available options in the scenario of ongoing litigation.

2.3.2

Streamlining Considerations

Due to constrained resources and an increased focus on gathering more PRP search information earlier, possible ways to increase the efficiency of a PRP search include:

- multi-site work assignments;
- simultaneous submission of reports to all Agency reviewers;
- open procurement authority for enforcement staff;
- an early on-site responder's checklist to avoid duplicating tasks; and
- use of third-party (ADR) neutrals to facilitate gathering and exchange of information, and PRP organization and coalescence efforts, where appropriate.

Several regions use multi-site work assignments designed to expedite PRP search efforts and other enforcement support by eliminating individual work assignments for each PRP search effort. Through narrowly defined and directed tasks, the multi-site work assignment provides EPA with a means to obtain expedited support in acquiring and managing PRP search information. A general work plan is prepared by a contractor based on EPA's statement of work for a multi-site open work assignment for enforcement support. Once the general work plan is approved by EPA, an EPA work assignment manager (WAM) initiates site-specific tasking through the use of a technical direction memorandum (TDM) to the contractor. The

TDM must be approved by the EPA project officer, and will direct the contractor to perform specific tasks for a designated site and describe the type of deliverables required. The TDM further provides the contractor with a site account number for charging work performed for the site and a target date for completion of the work. An example of a multi-site work assignment is provided in Appendix C. PRP search staff should consult their region's COs or POs to determine whether PRP search work can be performed under a multi-site work assignment. A list of regional COs and POs is provided in Appendix B.

Some regions are reducing PRP search deliverable review times by requiring the PRP search contractor to submit copies of the draft baseline and interim final PRP search reports simultaneously to the program and ORC offices. Regions are also encouraged to require phased deliverables instead of one or two deliverables over the life of the PRP search. Phasing can reduce the risk of contractors conducting searches that are entirely off track, increase product quality, and provide opportunities to modify the PRP search approach incrementally.

A few regions have successfully piloted procedures streamlining the process for reimbursing Agency employees for out-of-pocket expenses incurred in the performance of official duties. This streamlining simply involves the use of an open procurement request (PR) against which a succession of claims may be made, instead of the current process of preparing a new PR for each claim. Enforcement investigative staff typically make repeated small purchases in the performance of their duties, primarily for photocopying services. Since it is usually impossible to identify all the potential sources of documents in advance, such as

libraries, county courthouses, and universities, blanket purchase agreements (BPAs) are not a practical alternative. These institutions do not normally accept bank cards. Some regions have found credit card checks useful in these situations. Open PRs are established for each investigator, authorizing the individual to incur expenses for photocopying up to the amount of funding committed under the PR.

Investigators obtain reimbursement for such expenses by providing receipts and documenting a Standard Form (SF) 1164 referencing the open PR. Enforcement investigative staff should consult the appropriate contract and financial personnel in their region to determine specific procedures for open procurements. An early on-site responder's checklist is another useful tool for streamlining the process and reducing duplication of activities.

2.4

PRP Search Tasks

PRP search planning should identify the site-specific activities necessary to achieve the search's goals. The nature and number of search tasks will vary from site to site. For instance, a PRP search at an industrial plant site with only a few owner/operators should only require a baseline effort, with few or no followup tasks necessary. For multi-generator or multi-transporter sites, PRP searches typically are conducted in two phases, baseline and followup. Since each site involves a unique set of legal and technical issues, there is no fixed set of tasks that must be performed during every PRP search. However, a list of tasks commonly performed during a PRP search is provided in Chapter 4 of the Enforcement Project Management Handbook. Chapters 3 and 4 of this manual describe in detail common and more specialized tasks frequently performed in PRP searches. Those

developing the PRP search plan should determine which tasks should be performed, the sequence in which the tasks should be performed, and the schedule of deliverables.

Release of Information

The Agency must follow guidelines when determining whether to release information. The Agency emphasizes the importance of a consistent approach when releasing information to PRPs about the identity, relative contributions, type, and quantity of wastes at a site. Consult the Agency's Revised Policy on Discretionary Information Release Under CERCLA (March 31, 1993). See Appendix E for details on the release of information.

Information may be released through direct contact with PRPs, in conjunction with issuance of general notice letters or special notice letters, or by other means. For example, if a large number of PRPs are identified at a site, and a PRP steering committee has been formed, an effective means of information release could be steering committee distribution of information to all PRPs. If no steering committee exists, it may prove very beneficial for EPA or a neutral party to convene a meeting of PRPs at either the EPA regional office, state office, or a location central to the PRP community. The goal here is for EPA and state staff involved with the site to provide information, answer questions, and receive input from the PRPs. Convening a meeting of PRPs can result in the identification of additional PRPs and facilitate formation of a PRP steering committee.

Information release also may occur when the region invokes special notice procedures under section 122(e)(1) of CERCLA. When invoking CERCLA section 122 special notice procedures,

EPA must provide PRPs with waste-in lists, volumetric rankings, and a list of PRPs' names and addresses, "to the extent such information is available." Documents may include manifests, logbooks, waste tickets, receipts, and CERCLA section 104(e) responses.

Handling Sensitive Records

Confidential Business Information

CBI is commercial or financial information obtained from a person that is privileged or confidential. Protection of CBI keeps others from deriving a business advantage from information to which a specific party has exclusive rights. CBI includes such items as trade secrets and other proprietary information (for example, the design of an innovative treatment technology). When a company submits information that it thinks should be treated as CBI, it should label the data as such and explain why the information is considered confidential. It may be helpful to advise PRPs of these requirements when issuing them information request letters under CERCLA section 104(e). EPA does not have to decide whether the information is CBI unless someone requests its release; however, EPA must maintain the security of that information as if it were CBI until EPA makes a determination to the contrary. (See Chapter 2 references, page 95 and 40 CFR 2.201 et seq. for information on EPA procedures for making CBI determinations.)

Enforcement-Confidential / Enforcement-Sensitive

Enforcement-sensitive records are documents, such as plans for enforcement actions, case-specific enforcement strategies, and draft PRP search reports, that might damage EPA's enforcement case if they were released. Therefore regions should establish records management processes and procedures that prevent the unauthorized release of enforcement-confidential and enforcement-sensitive documents, and that are consistent with applicable law.

Information Requested Pursuant to FOIA

The Freedom of Information Act (FOIA) imposes two basic requirements:

- a duty to publish or otherwise make publicly available certain classes of agency records, 5 U.S.C. § 552(a); and
- a duty to make all other agency records publicly available upon written request, unless specifically exempt by statute, 5 U.S.C. § 552(b). (See Chapter 2 references, page 96.)

Under FOIA, a record includes any information currently maintained by the agency in any format. An "Agency record" is a record that was created by or is under the control of an agency. FOIA does not require an agency to create a record in response to a request for information, nor require an agency to provide future records.

A FOIA search requires review by manual or automated means of Agency records for the purpose of locating responsive records. The agency needs to make "reasonable efforts" to search for records in electronic form, except when the search would "significantly interfere" with the operation of the agency's computer systems. The search need only be reasonable; it need not uncover every responsive document in existence, but an agency employee must not avoid searching for records known to exist.

The initial response should inform the requester of the agency's decision to release or deny records, when it will release records, and that the requester may appeal the agency's decision. The initial response is due 20 working days after receipt of the request. The agency may obtain a 10-day extension by informing the requester in writing of "unusual circumstances" that will cause delay, such as the need to search separate office and field locations, search voluminous records, or consult another agency. Failure of the agency to respond within deadlines may constitute an exhaustion of administrative remedies, allowing the requester to go to court immediately.

Title 5 U.S.C. § 552(b) defines nine categories of records that are exempt from release under FOIA.

Exemption 1 - National security

This exemption protects from disclosure national security information concerning national defense or foreign policy that has been properly classified in accordance with procedural requirements of an executive order. EPA received classification authority in 2002.

Exemption 2 - Internal rules and practices of an agency

This exemption applies to two kinds of records: (1) records the disclosure of which may lead to the subversion of an agency rule or policy, and (2) technically responsive yet purely inconsequential records that contain little information of value in comparison to the burden of having to provide it to the requester.

Exemption 3 - Records specifically exempted by statute

Congress often exempts specific kinds of records through an "Exemption 3 statute" instead of a FOIA amendment. Laws that exempt specific records include the Federal Rules of Criminal Procedure (grand jury information), the Patent Act (unfiled patent application materials), Procurement Integrity Act (site selection information), and certain statutes dealing with the location of endangered species. Critical infrastructure statutes many contain FOIA exemption provisions.

Exemption 4 - CBI/Trade secrets

Information that is claimed as CBI or a trade secret by a submitter may initially be withheld from a FOIA requester pending a confidentiality determination by the Office of General Counsel (OGC) or ORC. Exemption 4 triggers an automatic appeal in which an EPA legal office issues a confidentiality determination and FOIA appeal determination even if the requester never officially appeals the initial denial. The agency will determine that information required to be submitted to it is confidential only if release would either cause substantial competitive harm to the submitter or impair the government's ability to obtain such information in the future. Information that is voluntarily submitted to the agency has only to meet the lower

standard of not being otherwise publicly available. Information must involve a formula or production process to be granted trade secret status. Most business information is not a trade secret under that definition.

Exemption 5 - Privileged communications

A record must satisfy two criteria to qualify for this exemption. First, the record must be inter- or intra-agency, meaning it cannot have been shared outside the executive branch. Records or information that originated outside the executive branch may nonetheless be considered intra-agency if the source is a "consultant." A "consultant" is one who assisted the agency's decision making process by advising the agency on a matter in which the consultant has no stake in the outcome and is not otherwise advancing an interest or agenda that may benefit it over other parties. Settlement records often must be released because they are not inter- or intra-agency records. Second, the record must be protected by a civil discovery privilege. Common privileges include:

Deliberative process privilege

The record must be pre-decisional and deliberative. The purpose of the privilege is to promote frank and honest discussion of options prior to a decision and to avoid public confusion about the rationale behind an agency decision. Indicators of the privilege include the management level of the author, the point in the decision-making process when the record was created, and how the record was used. The privilege does not lapse after a decision is made, and generally does not cover facts.

Attorney-client privilege

The record must have been drafted by or at the direction of an attorney and contain advice regarding a client's legal issue and must have been generated and maintained in confidence. The purpose of the privilege is to facilitate effective representation by promoting frank and open discussion between attorney and client. The agency – not an individual employee or program office – is the client. Privilege may protect opinions and facts. Privilege does not attach unless the attorney is actually employed or acting in a legal capacity. Privilege can protect communications with any EPA employee, not just members of management.

Attorney work product privilege

The record must have been drafted by or at the direction of an attorney in anticipation of litigation, and generated and maintained in confidence. The purpose of the privilege is to protect the mental impressions and work product generated by an attorney while representing a client in litigation. Litigation need not have commenced; the work product only needs to identify specific claims that may reasonably lead to litigation. A record that was generated as a normal part of an agency's functions that later may be relevant to litigation is not covered. The privilege may also apply to factual materials.

Exemption 6 - Personal privacy

This exemption protects personal information whose disclosure would constitute a "clearly unwarranted" invasion of personal privacy. The purpose of FOIA is to allow public inspection of information that is relevant to the workings of government, not

necessarily every piece of information the government possesses. This exemption requires a constant balancing of the public interest in the requested information and the individual's right to privacy.

Exemption 7 - Law enforcement

This exemption applies to documents that are compiled for civil or criminal law enforcement purposes. The exemption applies to documents the disclosure of which:

- could reasonably be expected to interfere with law enforcement proceedings (open investigations only; documents relating to closed investigations must be released);
- would deprive a person of his right to a fair trial;
- could reasonably be expected to constitute an "unwarranted" invasion of personal privacy (lower threshold than Exemption 6);
- could reasonably be expected to disclose a confidential source;
- would disclose law enforcement techniques and procedures and could reasonably be expected to risk circumvention of the law; or
- could reasonably be expected to endanger the life or physical safety of an individual.

Exemption 8 - Banking information

This exemption applies to records used by agencies responsible for the regulation or supervision of financial institutions.

Exemption 9 - Well data

This exemption applies to geological and geophysical information and data, including maps, concerning wells.

ORC or OGC should be consulted whenever a question arises about releasing records. EPA employees risk criminal liability by releasing protected information such as CBI materials or Privacy Act information. Regional FOIA officers should be consulted on requirements for responding to FOIA requests.

2.5

Document Filing and Retention and Release

2.5.1

Document Management



During the planning process, the search manager should establish a file structure for the search, considering factors such as regional file structure, anticipated volume of information, nature of PRP interaction with EPA on the PRP search, anticipated information exchange, FOIA response requirements, and evidentiary concerns; ascertain whether the accumulated data is likely to be voluminous enough that an electronic system for managing it will be needed; and develop or obtain such a system. The PRP search manager should utilize the expertise of the records manager in each region. This person is an invaluable organizing and managing records. A document control system for identifying and tracking documents should also be established.

2.5.2

CERCLIS/WasteLAN



The Comprehensive Environmental Response, Compensation, and Liability Information System/Waste Local Area Network (CERCLIS/WasteLAN), is an information management system made available to EPA's regional offices and headquarters. It incorporates numerous site-related subjects.

CERCLIS/WasteLAN includes a number of features intended to facilitate PRP searches and the sharing of PRP data. These features are particularly important when interstate or multi-state PRPs are concerned. Data entered into CERCLIS/WasteLAN about parties that are associated with a general notice letter, special notice letter, enforcement instrument, or filed litigation referral are available to all regions the following Monday. This data-sharing capability, combined with features that make it easy to find out if a particular individual or firm is already in the database, is intended to reduce the need to repeat preliminary work that has already been done by others.

In addition to basic information (name, address, phone number) on all parties associated with a site, CERCLIS/WasteLAN also stores information describing the involvement of the identified PRPs at the site, a history of any enforcement actions taken, what response actions the PRPs have undertaken or committed themselves to perform, and information about correspondence issued by the Superfund program. CERCLIS/WasteLAN is available at most work stations in regional offices, and training is available. A summary of CERCLIS/WasteLAN's capacity and the type of PRP-related data gathered, along with examples of screens used when entering data, can be found in Appendix F.

Information Management

Factual information gathered during a PRP search can be grouped by its source and within each source by PRP. Information request letters and responses should be organized and maintained for use by Agency personnel. Government documents, title search documents, PRP documents, interview summaries, and information request letters and responses may be grouped separately. Index numbers should be assigned to all documents to ease referencing of the evidence summary sheets and the PRP search report. Section 3.2 of this manual discusses some factors involved in database creation and the storage and special handling of documents.

Chapter 2 References		
Name	Section	Location
Applicable or Relevant and Appropriate Requirements (ARARs)	2.0	http://www.epa.gov/superfund/action/guidance/remedy/arars.htm
List of Regional COs and POs	2.1.1	Appendix B
Environmental Programs Assistance Act (June 12, 1984)	2.1.1	http://www.epa.gov/epahrist/see/brochure/law.htm
Title V of the Older Americans Act	2.1.1	42 U.S.C. § 3056 et seq. http://wdsc.doleta.gov/seniors/other_docs/owp-106-501.pdf
Superfund Reforms Home Page (June 1993, February 1995, and October 1995)	2.1.2	http://www.epa.gov/superfund/programs/reforms
Releasing Information to PRPs at CERCLA Sites (March 1, 1990)	2.1.2	http://www.epa.gov/compliance/resources/policies/cleanup/superfund/release-prp-rpt.pdf
Issuance of Interim Rule: Disclosure of Confidential Data to Authorized Representatives of the United States and Potentially Responsible Parties (January 5, 1993)	2.1.2	http://www.epa.gov/compliance/resources/policies/cleanup/superfund/iss-confdata-mem.pdf
Revised Final Guidance on Disseminating EPA's SBREFA Information Sheet to Businesses at the Time of Enforcement Activity (August 31, 1999)	2.1.2	http://www.epa.gov/compliance/resources/policies/civil/sbrefa/index.html

Chapter 2 References		
Name	Section	Location
Small Business Fact Sheet	2.1.2	http://www.epa.gov/compliance/incentives/smallbusiness/index.html
Privacy Act	2.1.2	5 U.S.C. § 552 et seq. http://www.access.gpo.gov/uscode/title5/parti_chapter5_.html
40 CFR Part 2, Subpart B (CBI)	2.1.2	40 C.F.R. Part 2 http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr2_00.html
Sample Information Request Letter Questions	2.1.2	http://intranet.epa.gov/oeca/osre/docs/html
Documentation of Reason(s) for Not Issuing CERCLA §106 UAOs to All Identified PRPs (August 2, 1996)	2.1.2	http://www.epa.gov/compliance/resources/policies/cleanup/superfund/reason-cer106-rpt.pdf
Enforcement Project Management Handbook	2.3	http://intranet.epa.gov/oeca/osre/hbk-pdf/index.html
National Oil and Hazardous Substances Pollution Contingency Plan	2.3.1	40 C.F.R. Part 300 http://www.access.gpo.gov/nara/cfr/waisidx_02/40cfr300_02.html
Multi-site Open Work Assignment (expedited work assignment)	2.3.1	Appendix C
Checklist for Removal/Pre-remedial Sites	2.3.1	Appendix D

Chapter 2 References		
Name	Section	Location
Revised Policy on Discretionary Information Release Under CERCLA (March 31, 1993)	2.4	Appendix E
Freedom of Information Act (Reference Guide)	2.4	5 U.S.C. § 552 et seq. http://www.epa.gov/foia/guide.html
Quick Reference Guide for Using CERCLIS/WasteLAN	2.5.2	Appendix F