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MCP Fact Sheet: Opportunities for Public Involvement in Preliminary Response Actions

Immediate Response Actions (IRA) and Release Abatement Measures (RAM) 310 CMR 40.1403(9)

Overview

The Massachusetts Waste Site Cleanup Program sets performance standards for conducting response actions which encourage well planned and implemented cleanups of contaminated properties. To be successful, cleanups of contaminated sites must address the concerns of the communities in which they are located.

The MCP, 310 CMR 40.1403 (9), provides opportunities for the public to be informed of and, when circumstances allow, involved in the review and planning of preliminary response actions such as Immediate Response Actions (IRAs) or Release Abatement Measures (RAMs). To ensure that the public is informed of preliminary response actions, the MCP requires that certain notifications be provided.

The party conducting the preliminary response actions must notify the Chief Municipal Officer (Chairperson of the Board of Selectman or the Mayor) and Board of Health representative of a community of the following preliminary response activities:

- implementation of an IRA for an Imminent Hazard
- submittal of a completion statement for an IRA for an imminent hazard
- implementation of any Release Abatement Measures
- implementation of field work involving the use of respirators, protective clothing, or residential sampling

(Please see Massachusetts Contingency Plan Fact Sheet, PUBLIC INVOLVEMENT IN SITE CLEANUP 310 CMR 40.1400, Public Notice Requirements Fact Sheet for additional notification requirements.)

These notices should also inform local officials of the public involvement opportunities available through the MCP for preliminary response actions and to whom and where requests for public involvement opportunities should be sent.

These public involvement opportunities are different from those available at Public Involvement Plan sites because of the "time sensitive" nature of preliminary response actions. The specific public involvement

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

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opportunities for preliminary response actions vary depending on the interest of the community and the nature of the response action (emergency versus non-emergency).

Requests for Public Involvement

At least one local official, or ten or more residents of communities in which a disposal site is located or of communities potentially affected by a site may request an opportunity to be involved in the planning or evaluation of an IRA or a RAM. Requests concerning any type of IRA, imminent hazard or not, must be submitted to the party conducting response actions and the appropriate DEP Regional Office. Requests concerning RAMs must be submitted to the party conducting response actions. If a request is made for involvement in a preliminary response action, public involvement activities must be applied, when conditions allow, to all preliminary response actions conducted at the site.

Once in receipt of the request, the party conducting response actions should write to all of the people who have signed the request to let them know that it was received and how it will be followed up. The party conducting the response action must, at a minimum, do the following:

- 1) contact the people making the request and the appropriate local officials to identify their concerns about the preliminary response action;
- 2) provide information to those making the request about the nature and extent of contamination (to the extent known at the time) and about implemented and planned response actions. This information may include copies of plans, status reports, Imminent Hazard Evaluations, as well as Completion Statements, and Permanent or Temporary Solution Statements. There is currently considerable debate over what level of lead in soil should be considered "safe". Ideally, in areas where small children will be present, concentrations less than 100 mg/kg (also referred to as "parts per million" or "ppm") are desirable, and values above 1000 mg/kg are undesirable.) Where the public has expressed an interest in commenting on preliminary response actions for a site, opportunities to comment on the Phase I, and Tier Classification for the specific site should also be provided.

Identifying Community Concerns

By telephoning concerned citizens and local officials, the party conducting response actions initiates a dialogue with the community about the response action(s); identifies community concerns; and begins discussion about those concerns. Concerns about the nature and extent of contamination; the risks posed to health, safety, public welfare and the environment; and the adequacy of preliminary cleanup measures should be addressed in the IRA Plan or the RAM Plan (or the relevant status report or completion statement if the IRA or RAM is already underway or completed). [See BWSC Interim Policy WSC-800-90, Section II, Identifying People to Interview, for a list of appropriate officials and Using the Interview To Determine Community Concerns, for tips on conducting interviews]. Concerns about the communication of site information should be addressed by identifying methods such as fact sheets, public meetings, and information repositories for informing the public about response actions.

Once community concerns have been identified and the relevant documents about a preliminary response action have been provided to community members, then opportunities to comment on response action plans must be provided. These opportunities will ensure that the party conducting response actions:

- understands the issues and concerns of the community about the proposed cleanup measures and; incorporates relevant comments into ongoing site activities or future plans

Opportunities to comment may be provided by:

- holding a public meeting; and/or

- providing an opportunity for the public to submit written comments on the relevant document

If a public meeting is requested, it must be held at a time and place convenient to the public and public notice of the meeting should be issued at least 14 days before the meeting.

At a minimum, the party conducting response actions should establish a mailing list that includes local officials and petitioners and an information repository for site-related documents and public meetings minutes. When a document is available for public comment, the party conducting response actions should place a copy of the document in the information repository, and provide a notice of the document's availability to parties on the site mailing list. The notice will include the document title, where it is available for review, information about how to submit comments to the party conducting response actions, and the deadline for submitting comments. The notice should also state that copies of comments should be simultaneously copied to the appropriate DEP Regional Office for inclusion in the DEP site file. Each public comment period should be a minimum of 20 calendar days, which can be extended if requested and time allows. Comment periods should not unreasonably delay implementation of response actions.

Opportunities to comment should precede implementation of the IRA or RAM, when possible. If time constraints do not permit (e.g. a sudden release poses an imminent hazard if not addressed immediately, or a time critical plan has already been submitted), then an opportunity for the public to comment and to discuss concerns should be provided once implementation is underway. Relevant concerns should then be addressed in subsequent response actions.

Response to Comments: Addressing Community Concerns about IRAs and RAMs

The party conducting response actions must prepare a summary of all comments received on each document available for public comment, as well as the responses to these comments. The summary must note which comments have been incorporated into plans for the IRA and RAM and explain why others have not. A copy of this response summary must be sent to everyone who submitted comments and to the DEP Regional Office, and must be placed in the information repository. The party conducting response actions must also send a notice of the availability of the response summary to the parties on the mailing list.