United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

MAY 15 2015

ENVIRONMENTAL COMPLIANCE MEMORANDUM NO. ECM 15- 3

To: Heads Of Bureaus and Offices

From: Willie R. Taylor, Director
Office of Environmental Policy and Compliance

Subject: Authorizing CERCLA Response Actions Undertaken by Other Federal Agencies on DOI-Managed Lands

The Office of Environmental Policy and Compliance (OEPC) is issuing this Environmental Compliance Memorandum (ECM) pursuant to the authority provided in 112 Department Manual (DM) Chapter 4 to provide guidance concerning the authorization of response action [as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)] undertaken by other Federal agencies on or in regard to Department of the Interior (Department) land. This guidance applies to authorizing activities undertaken by another agency to investigate or clean up a release of hazardous substances on land under the Department's jurisdiction, whether such activities are conducted pursuant to CERCLA or other authority. This ECM is consistent with the Statement of Principles for Collaborative Decision Making for Cleanup of Formerly Used Defense Sites on Federal lands, as found in ECM 07-2.

The Secretary's CERCLA authority originates from Executive Order 12580. Authorizing response actions to be undertaken on Department-managed land by other Federal agencies triggers the CERCLA authority of the Department. Therefore, the authority to concur with response action decision documents [Records of Decision (RODs) and Action Memoranda], as well as other documents or activities related to response actions undertaken by other federal agencies on Department land is as delegated by 209 DM 4.1 and 207 DM 7, respectively. Such concurrence is required before a Bureau may grant another Federal agency access to Department-managed land to conduct response activities. In addition, there may be other Bureau-specific requirements arising from a Bureau's land management authority that pertain to granting access to Bureau-managed land that must also be satisfied.

Specifically, the authority to issue CERCLA RODs has been delegated by the Secretary to the Assistant Secretary - Policy, Management and Budget (AS-PMB) as stated in 209 DM 4. In order for AS-PMB to issue a ROD, or concur with a ROD issued by another Federal agency selecting remedial action to be taken on Department-managed land, a surname package with a copy of the ROD and a briefing memorandum must be signed by the Bureau Director (or the Director's designee), the Bureau's Deputy Assistant Secretary, and the Solicitor (or the Solicitor's designee). The briefing memorandum must summarize the site conditions and the primary components of the remedy being selected. The process by which Bureaus must obtain such authorization from AS-PMB is described more fully in ECM 10-3.

Concurrence with other documents or activities related to response actions, such as preliminary assessment/site inspection, remedial investigation/feasibility studies, engineering evaluation/cost analysis reports, and Action Memoranda, has been delegated to Bureau Directors by 207 DM 7 who, in many cases, have re-delegated such authority. Concurrence with such documents or activities prepared or conducted by another Federal agency pursuant to granting access to conduct response actions on the Department-managed land, must follow the procedures set forth in the applicable Bureau's delegation document, just as if such actions were being undertaken by the Bureau itself.