



Understanding the Superfund Alternative Approach

Office of Site Remediation Enforcement

Office of Superfund Remediation and Technology Innovation

Introduction

Superfund sites are places where EPA has determined that a hazardous substance, pollutant or contaminant is located. These areas are entered in EPA's official site inventory. There are many pathways available to getting a Superfund site cleaned up. Among the best known pathways, for sites that need long-term cleanup, is to list the site on the National Priorities List (NPL). Sites on the NPL are eligible for federal remedial (long-term) cleanup funds.¹

EPA may also clean up sites eligible for the NPL using other Superfund and non-Superfund authorities, or States may use their authorities to clean up these sites. Which cleanup pathway is chosen depends on many variables, such as the complexity of the cleanup, the availability of funds (private or public) for the cleanup, and the nature (*e.g.*, private, governmental, tribal), number and experience of the parties involved at the site.

One of EPA's non-NPL Superfund pathways is referred to as the Superfund Alternative (SA) approach. The SA approach uses the same process and standards for investigation and cleanup as sites on the NPL. Sites using the SA approach are not eligible for federal remedial cleanup funds. Cleanup funding for sites with SA agreements is provided by the potentially responsible parties (PRPs).

As long as a PRP enters into an SA agreement with EPA and stays in compliance with that

agreement, there is no need for EPA to list the site on the NPL. If a PRP fails to meet the obligations of the agreement, EPA may reconsider putting the site on the NPL. Currently, sites using the SA approach are a small percentage of all cleanup agreements.

Threshold Criteria for Using the SA Approach

Eligibility for this approach is based on the following three criteria:

1. Site contamination is significant enough that the site would be eligible for listing on the NPL (*i.e.*, the site would have a Hazard Ranking System (HRS) score of 28.5 or greater;
2. A long-term response (*i.e.*, a remedial action) is anticipated at the site; and
3. There is at least one willing, capable party (*e.g.*, a company or person) that has responsibility under Superfund, who will negotiate and sign an agreement with EPA to perform the investigation and cleanup.

Getting Started with the SA Approach

EPA has discretion to determine if the SA approach is appropriate at a particular site. If a site meets criteria 1 and 2 above, EPA may approach a PRP, or a PRP may approach EPA, to negotiate an SA agreement. The SA agreement is equivalent to an agreement negotiated at an NPL site. For example, the same investigation and cleanup will be done as if the site were listed on the NPL.

¹ For more information on the NPL listing process, see www.epa.gov/superfund/sites/npl/index.htm.

PRPs may choose not to negotiate an SA agreement. In that case, the site would proceed to cleanup using a different path (*e.g.*, NPL listing, State cleanup program).

State Role

EPA will consult with the state in which the site is located on whether to attempt the SA approach, settlement negotiations and remedy selection. Throughout the process, the state will have the same opportunities for involvement as at an NPL site.

Cleanup Agreements

EPA will negotiate agreements with PRPs for site investigation and site cleanup. The agreement for investigation is usually in the form of an Administrative Order on Consent (AOC). The agreement for remedial action is always in the form of a judicial Consent Decree (CD).

Both the AOC and the CD should include language specific to the SA approach that keeps sites using the SA approach in an equivalent position to sites listed on the NPL. EPA has model language for SA provisions that address NPL listing after partial cleanup, technical assistance for communities, financial assurance and natural resource damage claims. The provisions needed depend on the work being performed.

Investigation & Remedy Selection

Once the site studies are complete and the hazards are identified, EPA will select a site remedy the same way it selects a remedy for sites listed on the NPL.

Community Participation

At sites listed on, or proposed to be listed on the NPL, a qualified community group may apply for a technical assistance grant (TAG) to hire an independent technical advisor. In SA agreements, EPA negotiates a technical assistance provision for the PRP to provide

funds should a qualified community group apply for such an advisor.

EPA's Role During and After Cleanup

EPA will oversee the investigation and cleanup just as it would at a site listed on the NPL. When the cleanup is completed, EPA will ensure the remedy continues to work as intended by monitoring the site and performing the same reviews it conducts for sites listed on the NPL.

Potential Benefits of the SA Approach

The benefits of the SA approach will vary depending on the site circumstances. A benefit that accrues at most sites is the resource savings of not formally proposing and listing a site on the NPL. Other benefits may include a community's good will at not having the site listed on the NPL, a PRP's willingness to negotiate a good-faith agreement, and the opportunity to start cleanup work more quickly than waiting for listing on the NPL. Overall, the cleanup process is as protective as at NPL sites.

Further Information. If you have questions regarding this fact sheet, please contact Nancy Browne, Office of Site Remediation Enforcement, at (202) 564-4219, browne.nancy@epa.gov; or Robert Myers, Office of Superfund Remediation and Technology Innovation, (703) 603-8851, myers.robert@epa.gov.

For more information on the SA approach, including links to the guidance and a list of sites that have SA approach agreements, please go to: <http://epa.gov/compliance/cleanup/superfund/saa.html>

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