Module 8:
Federal Facilities
Module Overview

Module Objective: Examine the application of CERCLA authorities at Federal facilities

Topics

» Applicability of CERCLA at Federal facilities
» How CERCLA responses are implemented at Federal facilities
» EPA oversight of CERCLA cleanups at Federal facilities
» Federal facilities as PRPs
» Unique issues at Federal facilities and an overview of several major Federal environmental restoration programs
Application of CERCLA at Federal Facilities

- Federal facilities are subject to CERCLA requirements similar to private entities.
- E.O. 12580 delegates the President’s response authorities to Federal agencies for releases at facilities under their jurisdiction.
- Cleanups must be consistent with the requirements of the NCP.
- Trust Fund monies cannot be spent at Federal facilities.
Special Requirements and Timetables for Federal Facilities

- Creation of a Federal Agency Hazardous Waste Compliance Docket
- Completion of a PA/SI within 18 months
- Commencement of a RI/FS within 6 months of listing on the NPL
- Enter into FFA/IAG for remedial action at sites on the NPL
- Requirements applicable to the transfer of Federal property
Oversight of CERCLA Response Actions at Federal Facilities

- In general, EPA does not oversee responses performed by Federal agencies at non-NPL sites.
- EPA has oversight of remedial actions at Federal facilities on the NPL:
  - FFA requirements
  - Selection of the remedy
  - Implementation and O&M of remedy
- For property transfers, EPA makes “operating properly and successfully” determination regardless of site’s status.
State and Public Involvement Under CERCLA at Cleanups of Federal Facilities

- States, Tribal governments, and local officials must be provided an opportunity to participate in the planning and selection of remedial actions
- EPA’s “lead regulator” policy
- Federal facilities are subject to the public participation requirements of § 117 of CERCLA and the NCP
- At BRAC installations, stakeholders include the:
  » BRAC Cleanup Team
  » Local Redevelopment Authority
Federal Agencies as PRPs at Privately Owned Sites

- Typically, the Federal PRP will enter into a cash-out settlement using funds derived from the Judgment Fund.
- CERCLA § 106 UAOs require DOJ concurrence.
- FUDS present unique challenges.
Other Cleanup Issues at Federal Facilities

- UXO, OE waste, and remediation of former military training ranges
- Contaminated soils from lead-based paint at closing installations
- Perchlorate contamination
EPA Headquarters Offices that Address Federal Facility Cleanups

- FFRRO
- FFEO
Major Federal Agency Environmental Restoration Programs

◆ Defense Environmental Restoration Program
  » Established under SARA § 211
  » Includes three programs: IRP, BRAC, and FUDS

◆ DOE’s Environmental Restoration Program
  » Established at Assistant Secretary level
  » Cleanups generally occur under CERCLA authority with triparty agreements
In Review

- Federal facilities are subject to CERCLA similar to other entities, including liability.
- E.O. 12580 designates the head of the Federal agency with jurisdiction over the facility as the lead agency.
- EPA oversight of CERCLA actions at Federal facilities occurs at sites on the NPL and property transfers.
- Federal agencies, such as DoD and DOE, have established comprehensive restoration programs.