

United States  
Department of the Interior  
Bureau of Land Management

# Hazardous Materials Environmental Compliance Guide for Field Managers



Division of Environmental Quality and Protection (WO-280)

January 2009



## Preface

Compliance with environmental laws and regulations is one of the many challenges for which the Department of the Interior's (DOI) Bureau of Land Management's (BLM) Field Managers have responsibility. This guidance has been specifically developed to assist the Field Manager in complying with the numerous Federal, State, and local environmental requirements. The information in this document covers hazardous materials compliance for facilities owned by the BLM and BLM operations at those facilities. This guidance does not cover lessee or permitted activities.

While the environmental requirements are complex and comprised of numerous statutes, Executive Orders (EO), regulations, and policy, the fundamental concepts are straightforward. The systems of environmental regulations are designed to protect human health and the environment. Field Managers can use this guide as a tool to gain quick insight regarding a particular environmental subject. The guide is designed to provide a variety of useful information on a range of environmental topics that can be reviewed as a whole, or independently, as specific environmental compliance issues occur. The guide will help in discussing the issue with staff members by providing the Field Manager with basic information and resources on each topic.

Although this guide is intended to provide information helpful to Field Managers in understanding and complying with environmental laws, it is not intended to provide legal advice. Field Managers should consult with the Office of the Solicitor to obtain advice and guidance on their responsibilities/obligations under environmental laws.

## Table of Contents

Preface .....	1
Introduction .....	3
Pollution Prevention and Recycling .....	4
Safety and Hazardous Materials .....	5
Solid and Hazardous Waste .....	8
Illegal Dumping .....	11
Drinking Water .....	14
Contaminated Site Clean-up .....	15
Acquisition and Disposal of Real Property .....	18
Emergency Response .....	20
Natural Resource Damage Assessment and Restoration (NRDAR) .....	23
Compliance Assessment for Safety, Health, and the Environment (CASHE) Program and Internal Audits.....	24
Environmental Management Systems (EMS) .....	25
Hazardous Materials, Solid Waste and AML Cleanup and other Hazards Projects Funding Mechanisms .....	26
Overview.....	26
Subactivity 1640 – Hazard Management and Resource Restoration (Hazmat) .....	27
Subactivity 1640 – Special Cleanup Fund (SCF).....	27
Subactivity 1010 – Abandoned Mine Land (AML) Cleanup Program .....	28
Subactivity 2641 and 2642 – Central Hazardous Materials Fund (CHF).....	30
Subactivity 9210 and 9260 – Natural Resource Damage Assessment and Restoration (NRDAR) .....	30
Common Environmental Statutes Covered by this Guide .....	32
Training Resources for Managers .....	33
The BLM's Environmental Resources .....	35
Abandoned Mine Land (AML) .....	35
Hazardous Materials (Hazmat) Program Leads.....	35
National Operations Center (NOC) .....	36
Washington Office Division of Environmental Quality and Protection .....	36
Acronyms and Abbreviations .....	37

## INTRODUCTION

According to the U.S. Environmental Protection Agency (EPA), there are approximately 14,000 environmentally regulated Federal facilities nationwide. The Bureau of Land Management (BLM) manages a significant number of State and District/Field Offices, Field Stations, and other sites in support of the multi-use land management responsibilities defined by the Federal Land Policy and Management Act of 1976 (FLPMA).

The Division of Environmental Quality and Protection (DEQP) created this guide to assist new and experienced Field Managers in identifying, understanding, and implementing key environmental requirements. This guide provides a brief discussion of the most common environmental requirements related to the BLM's land management activities. A list of resources and contacts is included at the end of this document to assist the Field Manager in understanding and addressing these requirements.

This guide provides the Field Manager with the basic materials to facilitate discussion and understanding of environmental requirements and the environmental resources that exist within the BLM to assist in managing these requirements. Environmental requirements are expressed in statutes, Executive Orders (EOs), regulations, and the DOI and the BLM's policies.

## POLLUTION PREVENTION AND RECYCLING

### Applicability

Pollution prevention and recycling apply to all of the BLM's facilities. Pollution prevention and recycling activities are the earliest and easiest steps that a manager can take to eliminate a variety of environmental compliance issues, and are key elements in the BLM Greening Strategic Plan.

### Regulatory Overview

The Pollution Prevention Act of 1990 (PPA; 42 U.S.C. §13101 and 13102, et seq., 1990) established pollution prevention as a "national objective." Pollution prevention is described simply as any actions that reduce or eliminate waste at the source. Effective pollution prevention follows the hierarchy first outlined in the Federal PPA:

- ◆ Pollution should be **prevented** or **reduced at the source** whenever feasible
- ◆ Pollution that cannot be prevented should be **reused or recycled** in an environmentally safe manner whenever feasible
- ◆ Pollution that cannot be prevented or recycled should be **treated** in an environmentally safe manner whenever feasible
- ◆ **Disposal** should be employed only as a last resort and should be conducted in an environmentally safe manner and according to regulations. (Source: Henry F. Habicht II, *Memorandum: EPA Definition of Pollution Prevention*. U.S. Environmental Protection Agency; May 28, 1992)

### Discussion

The basis for any environmental compliance program is regulating the disposal of solid and hazardous waste. Pollution prevention and recycling are directed at the source, prior to materials becoming waste, and can be accomplished by conducting the following general activities:

- ◆ Examine products and materials to determine whether alternatives are available that are non-hazardous
- ◆ Consider reasonable methods for reuse and recycling of appropriate products and materials
- ◆ Actively account for and track supplies to ensure effective use and minimize waste generation

### Implementation

Managers can address pollution prevention by promoting the following specific activities:

- ◆ Good housekeeping in all areas of the facility
- ◆ Effective inventory control of materials
- ◆ In-process recycling of materials to maximize service life
- ◆ Product substitution using more environmentally preferable "green" products
- ◆ Process changes to reduce the amount of waste produced



## SAFETY AND HAZARDOUS MATERIALS

### Applicability

Safety and hazardous materials, including products containing hazardous materials (e.g., chemicals), are common issues to all State and District/Field Offices and activities. State and District/Field Office Managers should consult the local or State Safety Manager for more information.

### Regulatory Overview

The Occupational Safety and Health Act (OSHA) includes provisions to ensure safe and healthful working conditions for Federal employees. Each Federal agency is responsible for establishing and maintaining an effective and comprehensive occupational safety and health program. The BLM National Office has established the Division of Safety, Health and Emergency Management to implement a comprehensive occupational safety and health program for the bureau. In addition each state has a State Safety Manager that is responsible for occupational safety and health.

### Discussion

Safety is a primary responsibility for all levels of the BLM's leadership. The BLM has a responsibility to provide employees with a safe working environment. A safe working environment is one in which the existing physical and chemical hazards are identified and controls are in place to reduce or eliminate the hazards. The BLM Risk Management Policy addresses the BLM's methods for identifying and managing risks to employees. Risk assessments are required for any activity involving health or physical hazards.

*The OSHA's definition of hazardous materials "include any substance or chemical which is a 'health hazard' or 'physical hazard', including: chemicals which are carcinogens, toxic agents, irritants, corrosives, sensitizers; agents which act on the hematopoietic system; agents which damage the lungs, skin, eyes, or mucous membranes; chemicals which are combustible, explosive, flammable, oxidizers, pyrophorics, unstable-reactive or water-reactive; and chemicals which in the course of normal handling, use, or storage may produce or release dusts, gases, fumes, vapors, mists or smoke which may have any of the previously mentioned characteristics."*

### Implementation

Employee exposure to hazardous materials can cause a wide range of health effects. Some of the health effects of chemical exposure include irritation to skin and mucus membranes, sensitization and carcinogenicity. In addition physical hazards such as flammability, corrosion and reactivity pose a physical threat to employees. To manage hazardous materials effectively, controls must be placed on the acquisition and use of hazardous materials within the State and District/Field Offices. An effective Hazardous Communications Program must be developed to control the hazards associated with chemicals used in the workplace. The purpose of the Hazardous Communication Program (Right to Know) is to ensure that BLM employees are informed of the hazardous materials they may encounter in the workplace and the physical and health hazards associated with the use of these chemicals. All hazardous materials that are purchased and used by the BLM's employees must have a Material Data Safety Sheet (MSDS) on file in an accessible area. One common mistake that employees make with respect to hazardous materials is to assume that they can use the hazardous materials at work in the same manner as they would in their home. This is not the case. The OSHA does not regulate hazardous materials for home use, but does regulate their use in the workplace. For example, a can of

#### **Use of Hazardous Materials at Home and Work**

The same hazardous chemical (e.g., insecticide) used at home with little to no requirements may have several requirements when used at work.

insecticide or paint that has very few requirements at home can have a multitude of requirements in the workplace.

The following are the most common problems with hazardous materials that are observed in the BLM's State and District/Field Offices:

- ◆ Lack of training on specific chemicals and hazards
- ◆ No MSDS information on file
- ◆ Improperly labeled chemicals
- ◆ Poor storage and housekeeping practices with chemicals (e.g., flammables and acids stored together)
- ◆ Outdated or incomplete inventory of hazardous materials
- ◆ Lack of protective equipment required by the label (e.g., many paints and solvents used by the BLM's employees require the use of a full face respirator)

The following are some simple solutions to most of the aforementioned problems:

- ◆ Ensure that personnel are trained on the hazards associated with the hazardous materials (e.g., annual hazardous materials—hazmat—awareness training)
- ◆ Provide engineering controls to mitigate the risk of exposure to hazardous materials
- ◆ Provide appropriate personal protective equipment (PPE) for all hazardous material
- ◆ Designate a specific person in the office to be responsible for hazardous materials inventory and for maintaining the MSDSs for all hazardous materials on site
- ◆ Use good housekeeping practices (e.g., label the hazardous materials and store them in an orderly fashion)
- ◆ Substitute hazardous substances with less hazardous substances (green material)
- ◆ Ensure that personnel read and comply with all labeled instructions
- ◆ Purchase the smallest amount of hazardous materials possible
- ◆ Dispose of old or unused hazardous materials promptly and properly

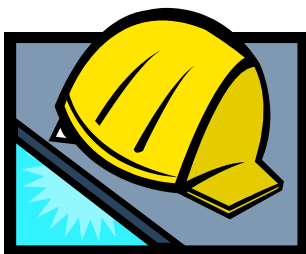
**National Institute for  
Occupational Safety and Health  
(NIOSH)**

The *NIOSH Pocket Guide to  
Chemical Hazards* provides  
similar info found on MSDS, but it  
is not a substitution for an MSDS  
<http://www.cdc.gov/niosh/npg/>.

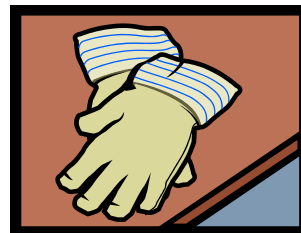
#### *Types of PPE for Personal Safety*



**Hearing Protection**



**Hard Hat**



**Gloves**



**Steel-toed Boots**



**Safety Glasses**



**Respirator**



## SOLID AND HAZARDOUS WASTE

### Applicability

Solid waste requirements impact all State and District/Field Offices to some degree. The Resource Conservation and Recovery Act (RCRA; 42 U.S.C. § 6901 et seq., 1976) applies to the generation, storage, treatment or disposal of solid and hazardous wastes. The RCRA also addresses recycling activities and purchasing green products. Managers need to discuss RCRA requirements for their facilities with a hazardous materials specialist.



### Regulatory Overview

#### RCRA

Regulates hazardous waste from “*cradle-to-grave*”. Hazardous substances moved from an area of concern may trigger RCRA requirements if that substance is a hazardous waste.

The RCRA regulates hazardous waste from the “*cradle-to-grave*.” This includes the generation, transportation, treatment, storage, and disposal of hazardous waste. The RCRA also sets forth a framework for the management of non-hazardous wastes that are called solid waste.

The 1986 amendments to RCRA included provisions to address environmental problems resulting from underground storage tanks (USTs) storing petroleum and other hazardous substances. Additionally, RCRA contains requirements for recycling and the purchase of materials made with recycled components.

#### USTs

The UST Program, under RCRA Subtitle I, regulates USTs containing hazardous substances and petroleum products.

It is important to understand that RCRA applies only to waste that is actively managed after 1980. Though RCRA does not generally address abandoned or historical sites, some RCRA requirements may apply to antidumping provisions, for example at these sites. Abandoned and historic sites are covered under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), which is discussed later in this document.

As with hazardous materials, there are regulatory overlaps between OSHA and the EPA on handling hazardous wastes. The applicable OSHA regulation (29 CFR 1910.120) regulates employee protections for working near or on hazardous waste sites. Other OSHA regulations also apply to the BLM’s activities—e.g., PPE (29 CFR 1910.132).

In addition, the BLM’s site entry policy prohibits employee exposure to hazardous substances that are not yet identified and that require “Level A” protection. The site entry policy defines the level of protection required for activities, except mine inspections and oil and gas operations, involving hazardous substances and is contained in the Hazard Management and Resource Restoration Manual (M-1703). Any of the BLM’s work activities that might expose an employee to a chemical or physical hazard requires the development of a risk assessment prior to commencement of the activity. Supervisors are responsible for this task, as well as for ensuring that employees have reviewed the risk assessment.

### Discussion

The EPA has delegated RCRA enforcement authority to most State governments; thus, States have the authority to conduct inspections of the BLM’s State facilities to enforce provisions of RCRA. The consequences of violating RCRA can be severe, and knowing and willful violations of RCRA can

include financial and criminal penalties. Federal employees are subject to these penalties and can be prosecuted if the violations are egregious.

#### **Personal Protective Equipment (PPE)**

- Level A protection is required when the greatest potential for exposure to hazards exists, and when the greatest level of skin, respiratory, and eye protection is required.
- Level B protection is required under circumstances requiring the highest level of respiratory protection, with lesser level of skin protection.
- Level C protection is required when the concentration and type of airborne substances is known and the criteria for using air-purifying respirators are met.
- Level D protection is a work uniform affording minimal protection and is used for nuisance contamination only. Level D is used when the atmosphere contains no known hazards and work functions preclude splashes, immersion, or the potential for unexpected inhalation of or contact with hazardous levels of any chemicals.

Examples of typical PPE for each level can be found on EPA's Web site  
[http://www.ehso.com/OSHA\\_PPE\\_EPA\\_Levels.htm](http://www.ehso.com/OSHA_PPE_EPA_Levels.htm)

Hazardous waste is related directly to the amount of hazardous materials purchased and used. After a hazardous material is no longer needed, it becomes a hazardous waste under RCRA and there are a variety of stringent requirements associated with its storage, treatment, transportation and disposal. The good news is that with proper management, most of the BLM's offices fall into a category of hazardous waste known as "*Conditionally Exempt Small Quantity Generator*" (CESQG). This means that an office can be exempt from most of the requirements of RCRA if it meets certain waste thresholds. To be conditionally exempt an office must generate less than the following:

- ◆ 100 (220 pounds) kg per month of hazardous waste
- ◆ 1 kg (2.2 pounds) per month of acutely hazardous waste
- ◆ 100 kg (220 pounds) per month of acute spill residue or soil

The RCRA hazardous waste storage requirements (found in 40 CFR 264, 40 CFR 265, and in corresponding State regulations) differ based upon the facility's generator status and the types of waste produced. As a general rule, hazardous wastes must be stored in closed containers that are in good condition. They must be labeled with appropriate information about the waste. Incompatible wastes (e.g., ignitable and oxidizers) must be segregated.

Another aspect of RCRA deals with recycling. It is important to know how much solid waste (i.e., trash) each State and District/Field Office generates and how much of this waste is diverted (i.e., recycled). In 2005, the DOI implemented a Web-based reporting system that allows each State and District/Field Office to report this information annually. The Washington Office publishes updated guidance on this reporting system each October.

Additionally, managers should be aware that those with government procurement cards and contracting officers have a requirement to purchase the least hazardous product necessary to

#### **Conditionally Exempt Small Quantity Generator (CESQG) Requirements**

CESQGs must do the following:

- Identify all hazardous waste generated
- Not accumulate more than 2,200 lbs of hazardous waste at any time
- Ensure hazardous waste is delivered to a person or facility that is authorized to manage it

See 40 CFR 261.5 for additional details

#### **Hazardous Waste Management**

As a hazardous waste generator, you are responsible for hazardous waste management from "cradle to grave."

do the job, and these personnel should receive annual training dealing with the purchase of environmentally preferable products.

### **Implementation**

It is important to designate someone in each office to manage the disposal of hazardous waste. The problems that are observed most often are associated with turnover of personnel and lack of accountability.

In some cases, State and District/Field Offices may be able to use the local county landfill for disposal of hazardous waste because the landfill is permitted/licensed/approved for disposal of hazardous wastes and is being operated consistent with state and federal requirements for management of hazardous wastes. In other cases, State and District/Field Offices will need to hire a company that specializes in the disposal of hazardous wastes. Before engaging a hazardous waste disposal company, the State and District/Field Offices should (1) consult with the state and federal regulators to ensure that the company that the company is properly permitted/licensed/approved for the transportation, storage, or disposal of hazardous wastes; and (2) consult with the Office of the Solicitor regarding standard terms and conditions in the company's contract for the transportation, storage or disposal of hazardous wastes. State and District/Field Office s that hire a company must take efforts to insure that they properly manage your waste. A few things to remember when managing hazardous waste:

- ◆ Maintain a record of the amount of waste generated per month and where and when it was disposed to document conditionally exempt status and proper waste management practices
- ◆ Develop a method to calculate the amount of solid waste generated and how much is recycled
- ◆ Minimize the amount of hazardous materials purchased – this will automatically reduce the amount of hazardous waste generated

## ILLEGAL DUMPING

### Applicability

Illegal dumping has been occurring on some of the BLM public lands for many years. Field, State, and District Offices continue to encounter many illegal dumps within their jurisdictions. Such dumpsites often encourage or engender additional illegal dumping in the same area, in what has come to be called “promiscuous dumps.”



### Regulatory Overview

The Resource Conservation and Recovery Act —commonly referred to as RCRA— is the public law that creates the framework for the proper management of hazardous and nonhazardous solid waste and is our nation’s primary law governing the disposal of solid and hazardous waste.

The RCRA banned all open dumping of waste, encouraged source reduction and recycling, and promoted the safe disposal of municipal waste. The RCRA also mandated strict controls regarding the treatment, storage, and disposal of hazardous waste

The RCRA was amended and strengthened by Congress in November 1984 with the passing of the Federal Hazardous and Solid Waste Amendments. These amendments to RCRA required phasing out land disposal of hazardous waste. Some of the other mandates of this strict law include increased enforcement authority for EPA, more stringent hazardous waste management standards, and a comprehensive UST program.

#### **RCRA vs. CERCLA**

- RCRA focuses only on active and future facilities.
- CERCLA addresses abandoned or historical sites.

### Discussion

Illegal dumping involves mainly the disposal of solid waste such as white goods, yard wastes, household trash, vehicles, furniture, construction debris, and hazardous waste on public lands. Illegal dumps often are created along railroads, dirt roads, routes, and in the deserts. Illegal dumps also pose a tempting opportunity to dispose of hazardous waste in violation of RCRA. A major type of hazardous waste found in illegal dumps is those generated by clandestine drug labs. Illegal dumping can present a serious risk to human health and the environment due to the physical hazards, chemical hazards, fire, and disease that can result from such activity. Additionally, illegal dumping can cause severe environmental quality issues by releasing pollutants to water, soil and air, degrading the beauty of the landscape and causing nuisance odors. Cleanup of illegal dumpsites is discussed under Contaminated Site Clean-up. For Hazardous Waste, EPA may issue an order to any person who violates the RCRA. The order may impose a civil penalty of up to \$27,500 per day for each violation, and may also require compliance. The EPA may also bring a civil action against persons who fail to comply with an order issued under the Act. The EPA does not have federal enforcement authority for the solid waste program unless the management of solid wastes constitutes an imminent hazard pursuant to RCRA § 7003; however, citizens may bring an action under the citizen suit provision of RCRA §7002.



## Implementation

The following are recommendations for Field, District, and State Offices to prevent and reduce the occurrence of illegal waste dumping on BLM public lands:

- ◆ **Establish Community Outreach, Education, and Involvement Programs** – Community development involvement efforts should teach residents:
  - Why they should not take part in illegal dumping
  - What can be done to prevent illegal waste dumping
  - How and why they should get involved
  - Whom to contact for assistance or to report an incident

The BLM can help educate the public on how to dispose properly of their household solid and hazardous waste by providing educational media such as brochures, handouts, and promotional items.

Such an initiative can be a collaborative effort with groups such as Take Pride in America, Keep America Beautiful Inc., state, county, and local governments, and community organizations. As part of a prevention program, Field Offices can participate and get involved in their jurisdiction's local community events such as state and county fairs and town hall meetings to publicize the impacts of illegal waste dumping. The BLM also can use media such as Public Service Announcements to educate the public on waste reduction and alternatives for disposing of wastes.

- ◆ **Conduct Targeted Enforcement** – The BLM Law Enforcement program can target solid waste illegal dumpers. BLM Law Enforcement personnel can investigate citizens' complaints about illegal dumping and attempt to identify those responsible for the illegal activities.

BLM Law Enforcement can obtain voluntary compliance and clean up, or may take civil or criminal enforcement action in cooperation with federal and state regulators, where necessary, after those responsible are identified for illegally dumping on public lands. To accomplish this task, BLM Law Enforcement personnel can conduct targeted enforcement in association with community outreach.

A dedicated task force can be formed that consists of enforcement officials from different departments or agencies with the authority or responsibility for illegal waste dumping prevention. Such collaborative efforts encourage cooperation and reduce the burden on Field and State Offices. Task Forces with representatives from different levels of government (city, county, state, or Federal) can be effective in working together to apply the strongest ordinance or law to an offender.

- ◆ **Create Legal Alternatives for Illegal Dumpers** – Field and State Offices can create legal alternatives for the communities to prevent illegal waste dumping on public lands. Field and State Offices can organize events to collect and properly dispose of frequently dumped materials, such as tire collections, white goods, and abandoned vehicles. Field, District, and State Offices can partner with local and county government to implement programs for legal alternatives for local residents to dispose of solid or hazardous waste.
- ◆ **Create a Measurement Initiative** – Field, District, and State Offices should establish and implement a measurement initiative to assess the nature and extent of risk presented by illegal waste

dumps before and after cleanup. The success of preventive measures can be measured by community feedback and by re-visiting the site within 6 to 9 months after cleanup to determine if illegal dumping has stopped or decreased. All offices are encouraged to publicize successes.

## DRINKING WATER

### Applicability

Drinking water requirements apply to BLM-managed drinking water sources. The BLM's offices and recreation sites that receive water from city or county supply systems may have only limited interaction with drinking water requirements. In both cases, managers should be aware of the requirements.



### Regulatory Overview

The Safe Drinking Water Act (SDWA; 42 U.S.C. s/s 300f et seq., 1974) was established to protect the quality of drinking water in the U.S. This law focuses on all waters actually or potentially designed for drinking use, whether from above ground or underground sources.

The SDWA authorized the EPA to establish safe standards of purity and required all owners or operators of public water systems to comply with primary (health-related) standards. State governments—delegated this power by EPA—also encourage attainment of secondary standards (nuisance-related).

### Discussion

Many of the BLM's offices have recreation sites that provide water from existing wells on BLM managed lands to visitors and staff. These drinking water sources present potential liabilities because of the variety of health related issues associated with organic and non-organic contaminants in drinking water supply systems. Managers should be aware of the number and types of drinking water supply systems in their areas of control. Managers should have an understanding of the sampling and monitoring requirements and the schedule for conducting these activities.

#### *Drinking Water Wells*

Drinking water from wells on lands managed by the BLM is subject to EPA and State sampling and monitoring requirements.

### Implementation

Managers should conduct the following steps to ensure that the State and District/Field Offices implement the drinking water program correctly and complies with the SDWA:

- ◆ Identify the number and types of drinking water sources within your management area
- ◆ Be knowledgeable of the technical requirements and sampling required to satisfy regulations
- ◆ Identify those members of your organization who are directly responsible for implementing those requirements and for sample collection
- ◆ Develop a process to insure that the regulatory requirements are met and routine follow-up is conducted

#### *SDWA Questions to Consider*

- Do you manage wells or surface water sources that provide drinking water?
- Do you perform the sampling and monitoring requirements for those sources?

The BLM State Engineering lead is an excellent source of information and can be called upon to address many of the questions related to drinking water supply systems.

## CONTAMINATED SITE CLEAN-UP

### Applicability

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; 42 U.S.C. s/s 9601 et seq., 1980) covers releases of hazardous substances. The CERCLA established response authorities to address hazardous substances released on Federal agency managed lands. This authority has been delegated to the Federal agency for releases or threatened releases where either the release is on, or the sole source of the release is from, any facility under the agency's jurisdiction, custody or control. This includes the authority to investigate, evaluate and implement response actions, or persuade or compel other parties to take response actions. Many State and District/Field Offices have contaminated sites that are being cleaned up pursuant to CERCLA. These sites typically include abandoned mines, dumps, and spill sites where hazardous substances were released or are threatened to be released due to deteriorating storage conditions.

*Solid Waste are excluded from regulation as hazardous waste for mining under RCRA but are not exempt from CERCLA. Petroleum products, unless specifically listed are excluded from CERCLA regulation.*

### Regulatory Overview

The CERCLA allows the President to take any action deemed necessary to protect public health or welfare or the environment from risks posed by a release or threatened release of hazardous substances. In addition, CERCLA allows for the government to seek recovery of money spent for cleanup costs from the potentially responsible party (PRP). The CERCLA Section 105 addresses the National Oil and Hazardous Substances Pollution Contingency Plan (NCP; 40 CFR part 300). The NCP establishes the processes and procedures used by lead agencies, including the BLM, for responding to releases of hazardous substances. When applying CERCLA authority, the BLM must act in a manner not inconsistent with the requirements of the NCP. The CERCLA was substantially amended in 1986 with the Superfund Amendments and Reauthorization Act (SARA; 42 U.S.C. § 9601 et seq., 1986).

In 1987, the President delegated his authority under CERCLA to Federal agencies, including the DOI pursuant to EO12580. Thereafter, the Secretary of the Interior further delegated certain CERCLA authorities to the various Bureaus within the DOI (Secretarial Order 3201). Since then, it has been the BLM's policy to use its CERCLA authorities and responsibilities when responding to hazardous substance releases or the threat of releases on Federal land managed by the BLM. This authority was codified in Departmental Manual Part 207, Chapter 7 and the CERCLA Response Actions Handbook 1703-1.

#### *The CERCLA Questions to Consider*

- Have you developed procedures to notify the National Response Center of a release of a reportable quantity within a 24-hour time period as required by the national NCP?
- What other Federal and State entities (e.g., US Coast Guard, EPA regional office) do you have to notify in the event of a release of a hazardous substance?
- Do you have any facilities listed on the Hazardous Waste Compliance Docket?

The NCP defines the term "lead agency" as the agency that assigns the individual who will plan and implement response actions under the NCP. Where the release (of a hazardous substance) is on, or the sole source of a release is from any facility under the jurisdiction, custody or control of a Federal agency, that agency will be the lead for remedial and removal actions, other than emergencies. Except for emergencies where EPA is the lead, the BLM is the lead agency for all response actions taken on land under its jurisdiction, custody or control.



The CERCLA and the NCP define response actions as either *removal* or *remedial*. Removals can be either time critical or non-time critical. Time critical removals are those where the BLM determines that a removal action is necessary and there exists less than six months before on-site removal activity must begin (i.e., a prompt response is required). A non-time critical removal action, however, is one where the BLM determines that a removal action is necessary, but not immediately (i.e., a planning period of at least six months exists before any on-site removal action must be initiated). Remedial actions are those consistent with a permanent remedy taken instead of, or in addition to, removal action to prevent or minimize the release of hazardous substances so that they do not migrate and cause substantial danger to public health or the environment.

***If You Have a CERCLA Site, Consider the Following:***

- What stage in the process is the CERCLA site?
- What stage(s) in the CERCLA process is the cleanup (i.e., Preliminary Assessment, Site Inspection, etc.)?
- Have you established an Administrative Record for each response action, made it available to the public, and maintained it as required by the NCP?
- Have you developed a Community Involvement Plan (CIP)?
- Do you participate in community activities and planning?
- Have you identified PRPs?
- Have you negotiated with the PRPs and determined whether or not they will perform the cleanup?
- Have you developed a cost avoidance/cost recovery strategy?
- Have you developed a local emergency contingency plan so that the BLM can coordinate with the local authorities on the cleanup?
- Have you notified the local authorities of types and quantities of hazardous substances used and stored at the site?

Managers should be aware of monitoring and operations and maintenance requirements identified in CERCLA decision documents. These are, typically, long-term requirements and may have significant cost and resource implications. Managers should also consider whether and to what extent CERCLA actions must be incorporated into the land use planning process. This helps to ensure that the remedy remains effective and that field personnel are aware of CERCLA sites in their area of responsibility.

## **Discussion**

Any of the BLM-managed land has the potential to require remediation in accordance with CERCLA upon discovery of a release or threat of release of a hazardous substance. The Central Hazardous Materials Fund (CHF) was established to provide a unified source of funding for cleanup of contaminated sites by the Bureaus within the DOI. Each year the DOI makes a request for project nominations. State and District/Field Offices should take full advantage of this source of funding to cleanup sites on or impacting resources on lands managed by the BLM. It is also important to note that if a site is being cleaned up pursuant to CERCLA authority, then the requirements under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321-4347) have substantially been met. This is the conclusion reached by the Department of Justice, Environmental and Natural Resources Division in a 1992 memorandum.

***CERCLA and NEPA***

When implemented correctly, activities conducted under CERCLA meet the functional equivalent of NEPA.

## **Implementation**

It is the BLM's policy to exercise its CERCLA authority when conducting cleanup of a site where hazardous substances have been or may be released; therefore, it is imperative that field personnel are familiar with the requirements of CERCLA and the NCP when dealing with spills and releases of hazardous substances or the discovery of abandoned, unknown chemicals and materials.

***BLM-Managed Land Remediation  
Not Under CERCLA***

For those cleanups not under CERCLA (e.g., physical safety hazards), follow the NEPA process as described in the BLM's NEPA handbook.

The CERCLA requires the “person in charge” of a facility or vessel, as soon as he or she has knowledge of a release of a hazardous substance in an amount equal to or greater than a reportable quantity in any 24-hour period to report the release immediately to the National Response Center (NRC). The NRC number is 1-800-424-8802, or (202) 267-2675 in the Washington, DC area. Contact the State Hazardous Materials Program Lead and/or the State Abandoned Mine Land (AML) Program Lead for assistance in identifying the requirements and processes to follow should field personnel discover and verify the release or threat of release of a hazardous substance. Managers also should request a report regarding the status of any remediation efforts in their jurisdiction.

***National Response Center (NRC) Notification***

- Notify the NRC when a release of a hazardous substance occurs in an amount equal to or exceeding the reportable quantity in any 24-hour period.
- Table 302.4 in 40 CFR 302.4 provides a list of reportable quantities of hazardous substances.
- Notify the NRC by calling 1-800-424-8802.
- There also may be State and local hazardous substance release reporting requirements.

## ACQUISITION AND DISPOSAL OF REAL PROPERTY

### Applicability

There are environmental requirements for BLM land purchases, leases, grants, or any other type of land acquisition in which the BLM gains a real property interest, which every manager should understand. The manager must know and understand the environmental liabilities associated with the acquisition of property.

### Regulatory Overview

All Appropriate Inquiry (AAI) is the process for evaluating a property's environmental conditions and assessing potential liability for contamination. The CERCLA provides liability protection if AAI is conducted. The EPA mandates that persons conducting AAI qualify as an Environmental Professional (EP). The AAI regulations (40 CFR 312) require that, in order to meet the due diligence and innocent landowner defense requirements under CERCLA, an EP must certify that an Environmental Site Assessment (ESA) has been performed. Additionally, the regulation has specific EP qualifications for at least one of the following:

#### **Conducting ESAs for Land and Property Acquisitions**

All Environmental Site Assessments for real property acquisitions must be conducted by an Environmental Professional as defined in 40 CFR 312.

- ◆ Professional Engineer or Professional Geologist license or registration from a State, Tribe, or U.S. Territory (or the Commonwealth of Puerto Rico) and 3 years full-time relevant experience or
- ◆ Licensed or certified by the Federal government, a State, Tribe, or U.S. Territory (or the Commonwealth of Puerto Rico) and 3 years full-time relevant experience or
- ◆ Baccalaureate or higher degree in a discipline of engineering or science and 5 years of full-time relevant experience
- ◆ Have the equivalent of 10 years of full-time relevant experience

### Discussion

The BLM has established policy, consistent with 40 CFR 312 that describes the education, training, and certification requirements for personnel to be considered an EP for the purpose of conducting ESAs. This current policy applies only to acquisitions; however, managers should also be aware of the environmental condition of properties that are being disposed. The DOI and BLM are currently developing policies that apply to land disposal.

### Implementation

Managers are required to ensure that all ESAs for acquisition and disposal of real property are conducted by an EP. Managers that do not have personnel who meet these EP qualifications will need to request assistance from their Hazmat State Office Program Lead or contract a qualified EP to conduct ESAs.

Section 120(h) of CERCLA imposes several requirements on all transfers of federal real property "owned by the United States" to non-federal entities. With regard to the Federal Real Property Disposal Process, CERCLA requires the Federal Government to:

- ◆ Give notice of hazardous substance activity to the grantee

- ◆ Include a covenant in the deed that “all remedial action necessary to protect human health and the environment with respect to any such substance remaining on the property has been taken before the date of such transfer”
- ◆ Include a deed covenant that the United States will return and perform any additional response action that may be required in the future
- ◆ Retain a perpetual right of access necessary to do such additional response actions



## EMERGENCY RESPONSE

### Applicability

As part of the response team led by the EPA or the U.S. Coast Guard (USCG) the BLM responds to oil discharges and hazardous substances releases or threats of releases posing imminent danger to human health and safety or the environment. The BLM must be prepared to respond to oil discharges and hazardous substances releases that affect its facilities, public lands, and resources.



### Regulatory Overview

The National Response Framework (NRF) is a guide that details how the nation conducts all-hazards response from the smallest incident to the largest catastrophe. This document establishes a comprehensive, national, all-hazards approach to domestic incident response. The Framework identifies the key response principles, as well as the roles and structures that organize national response.

The NCP is a part of the NRF and is a key legal authority that guides the structure, development, and implementation of the NRF. The NCP establishes the organizational structure and procedural requirements for emergency responses to oil discharges and hazardous substance releases or threats of discharges and releases into the waters of the United States or the environment, including public lands. The NCP establishes a national response system (NRS), including a National and Regional Response Team (NRT and RRT), the National Response Center (the communications hub of the NRS), and On-Scene Coordinators (OSCs) who direct or manage local-level emergency preparedness and response. Under the NCP and related Executive Orders, the DOI:

- ◆ Acts as a trustee for natural resources
- ◆ Provides representatives to the NRT and RRT to carry out responsibilities under the NCP
- ◆ Assists EPA or USCG, the lead agencies in emergency responses, in responding to oil discharges and releases of hazardous substances for which DOI is responsible
- ◆ Supports OSCs in preparedness and response activities

Under CERCLA, the BLM has the authority and responsibility for immediate notification for any release of hazardous substances, pollutants, or contaminants on public land or facilities under the BLM's jurisdiction. The BLM also is responsible for evaluation and removal/remediation of past and future releases, identification and assignment to PRPs of liability for releases, and the compensation of parties affected by and resources injured by releases.

### Discussion

The NRF outlines how the Federal government responds to an Incident of National Significance. Under the NRF, in accordance with the NCP and Emergency Support Function (ESF) 10 of the Federal Response Plan (FRP), the DOI is required to participate in preparedness and response activities, consistent with agency capabilities and authorities, to ensure DOI resources and expertise are appropriately considered in preparation and maintenance of contingency plans and other preparedness activities. Under the NCP, the USCG or the EPA supply OSCs who are responsible for

#### Lead Agency Authority for Response

The BLM has lead authority for responding to hazardous substance releases on its public lands. This delegation of lead authority does not include emergency actions or remedial actions for sites listed on the NPL. However, the BLM may be delegated lead authority by the USCG or EPA for emergency actions and for remedial actions at sites on the NPL.

notifying the DOI through the DOI's Office of Environmental Policy and Compliance's (OEPC) Regional Officers, who, in turn, contact the appropriate bureaus and coordinate DOI participation in national response activities. BLM field personnel may be delegated lead authority by USCG or EPA for emergency functions.

The NCP establishes coordinating structures at the national, regional, and local levels that are used to respond to thousands of incidents annually that do not require activation of the majority of the coordinating structures and processes contained in the NRF. To be better able to respond to these more "routine" incidents, the BLM requires that each Field Office prepare an *Environmental Contingency Plan for Emergency Preparedness and Response to Oil Discharges and Hazardous Substance Releases*. The BLM Environmental Contingency Plan is a step down plan that is incorporated into the BLM's *Environmental Safeguards Plan for All-Hazards Emergencies* which is required by, and incorporated in the DOI's *Environmental Safeguards Plan for All Hazard Emergencies*. The NRF requires all Federal agencies and bureaus to participate in, and be a part of, the NRF.

## Implementation

Managers can address emergency response by promoting the following specific activities:

- ◆ Ensure Field, District, and State Offices develop and implement an Environmental Contingency Plan for oil discharges and hazardous releases in Field, District, and State Offices with significant resources at risk. Offices are requested to update Environmental Contingency Plans as funding and resources are available. The Environmental Contingency Plan is the BLM's tool for providing quick, consistent, and safe procedures for employees and supervisors during emergencies.
- ◆ Improve emergency response preparedness by supporting staff participation in Local Emergency Planning Committees, State Emergency Response Committees (SERCs), Area Committees, Joint Response Teams (JRT) and RRT meetings and table top exercises.
- ◆ Support the BLM personnel who may be called upon by the USCG or EPA to participate in various sections of the Federal OSC's Incident Command System organization. The BLM responsibilities in the planning section may include identifying resources at risk and working on strategies to protect these resources. They also may serve in the Operations and Logistics sections with duties that include carrying out the response activities described in the Incident Action Plan. Employees from other BLM program areas, such as fire and safety, may be called upon to help as well. BLM personnel may be delegated as the Federal OSC representative by the OSC if the incident is entirely on the BLM's lands and the BLM is the main or only party affected. Duties may include coordinating activities under the NCP and consulting with the EPA or USCG.
- ◆ Support BLM staff participation in the Natural Resource Damage Assessment and Restoration (NRDAR) response that may be conducted along with the NCP response. The NRDAR response enables the BLM to make a case for litigation to recover damages from the PRP.
- ◆ Coordinate with BLM Headquarters, OEPC's Regional Environmental Officers, Homeland Security, and other offices as appropriate.

### National Pollution Funding Agreement

The USCG's National Pollution Fund Center (NPFC) allocates funds for oil spill response to agencies that submit a Pollution Removal Funding Agreement for the incident. The NPFC provides funding to do the following:

- Conduct response activities
- Conduct emergency restoration
- Initiate NRDAR activities

- ◆ Coordinate with local Regional Environmental Officer and USCG to request funding from the USCG's Oil Spill Liability Trust Fund when appropriate.
- ◆ Review applicable Washington Office Emergency Response guidance for specific details regarding Emergency Response Policy.

# NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION (NRDAR)

## Applicability

All of the BLM's offices manage natural resources and resource uses that are ecologically significant and valuable to the public. These valuable resources and uses may become injured or unavailable due to contamination from hazardous substance releases or oil spills. Office jurisdictions that have extensive resource development, industrial activity, or recreation uses, or are near metropolitan areas, are most likely to experience contamination events. When BLM offices have the identity of the parties responsible for the contamination, they may use the Natural Resource Damage Assessment and Restoration (NRDAR) program to restore these resources and their uses.

## Regulatory Overview

The BLM is authorized to conduct NRDAR activities under CERCLA, the Clean Water Act (CWA), and the Oil Pollution Act (OPA, 1990), consistent with the NCP. The objective of NRDAR is to restore natural resources injured as a result of oil spills or hazardous substance releases. Lessees are required to prepare and maintain a Spill Prevention Control and Countermeasures (SPCC) Plan and report spills to the BLM. The NRDAR authority covers all natural resources and resource services that the BLM manages (e.g., habitat, recreation, and access to commodity resources). With NRDAR authority, the BLM—acting as a resource trustee—conducts assessments to determine the restoration necessary to address the public losses of these resources. Through negotiated settlement or litigation, the BLM may seek to obtain monetary damages from the parties responsible for the contamination, to conduct restoration and reimburse the BLM for its assessment costs. The BLM may conduct NRDAR activities in partnership with other Federal, State, and Tribal agencies that share resource interests at a site.

### **NRDAR Objective**

The purpose of NRDAR is to restore natural resources injured as a result of oil spills or hazardous substance releases.

## Discussion

The NRDAR process is a resource management tool that the BLM may use to restore injured public resources and resource services lost due to contamination. The parties responsible for the injury provide the restoration funds; therefore, the public does not bear the burden. State and District/Field Offices may use Natural Resource Injury Scoping, a condensed assessment of suspected injuries and losses that coincides with removal planning efforts, to accomplish restoration within the cleanup actions. State and District/Field Offices may need to conduct further NRDAR work that may include a screening process to decide whether to go forward with NRDAR, and a pattern of studies and analyses leading to the identification of restoration actions.

## Implementation

The NRDAR process is administrative, scientific, and legal. It calls for dedicated staff attention by a case Coordinator, thorough pursuit of the parties responsible for the injury, and diligent coordination with response activities. Cooperative arrangements with the parties may lead to cost savings and prompt restoration. The NRDAR should include a thoughtful technical strategy for the assessment that efficiently identifies restoration needs. It should include coordination with the State Director, who is the BLM NRDAR decision maker, the Solicitor's Office, the National Operations Center (NOC), and the Washington Office. The Coordinators of NRDAR activities should involve relevant resource specialists, as well as legal assistance. The BLM may need to coordinate its NRDAR activities with other agencies. Funding to conduct NRDAR activities may be available from the Department's Restoration Fund; all funds spent on NRDAR activities that are consistent with NRDAR regulations and guidance are reimbursable from the responsible parties, along with the costs of the necessary restoration. Once the restoration funds are obtained from the responsible parties the trustees prepare a restoration plan and implement it. This plan includes public participation.

## COMPLIANCE ASSESSMENT FOR SAFETY, HEALTH, AND THE ENVIRONMENT (CASHE) PROGRAM AND INTERNAL AUDITS

The Compliance Assessment—Safety, Health, and the Environment (CASHE) program is a process developed to assist the BLM’s managers with their facilities management responsibilities.

The CASHE audit process is designed to identify and correct potential risks, minimize liability, and increase awareness about health and safety issues in the BLM’s operations and in the workplace.

The CASHE program consists of cyclical audits of the BLM’s offices and associated facilities to ensure that they are in compliance with accepted health and safety practices and with required environmental rules and regulations. These audits typically are conducted at every State and District/Field Office on a three- to five-year cycle. For each audit, a report is generated that lists findings and identifies cost-effective corrective actions that are provided to management for review and eventual management action.

### *The CASHE Process*

- Facilitates prompt correction of noncompliance identified during an assessment;
- Prevents the recurrence of noncompliance; and
- Protects human health and the environment.

The CASHE process has been designed to facilitate prompt correction of noncompliance identified during an assessment, to prevent the recurrence of noncompliance, and to protect human health and the environment. This is accomplished through the following:

- ◆ Training hazmat and safety personnel on the specific regulations that apply to their facilities
- ◆ Training supervisors and managers on specific regulations that apply to their facilities
- ◆ Ensuring that BLM offices are complying with the regulations or standards that are most protective of human health and the environment (e.g., compliance with OSHA, Department of Transportation (DOT), State, local and Uniform Fire Code (UFC) regulations, in addition to EPA regulations)
- ◆ Incorporating pollution prevention and environmental excellence initiatives (e.g., EO 13423) in the CASHE process to identify actions the field can implement to go beyond compliance
- ◆ Including personnel responsible for the area being assessed in the CASHE assessment team and discussing the findings and suggested corrective actions directly with them (e.g., fire station manager participates with the team while assessing the fire station)
- ◆ Identifying root causes of violations and making recommendations to establish, modify, or eliminate policies or practices that caused the violations to occur
- ◆ Providing immediate feedback on the findings in the form of a written Draft Final CASHE Report and a formal exit briefing to the BLM Office Management Team on the last day of assessment field work
- ◆ Encouraging BLM offices to begin to plan for the implementation of the CASHE recommendations immediately after the review process while the momentum from the CASHE visit is still fresh, resulting in the issuance of a final report that also serves as a corrective action plan



## ENVIRONMENTAL MANAGEMENT SYSTEMS (EMS)

An EMS is a process and framework that is used by an organization to manage its environmental affairs and issues, most notably, those areas where the entity interacts with or affects the environment, as well as where legal requirements exist.

The BLM uses the Plan-Do-Check-Act model for managing environmental aspects. In this model, the BLM's Environmental Management System (EMS) will do the following:

- ◆ **PLAN:** Plan its activities with consideration of environmental impacts and legal and other requirements, including establishing objectives and targets based on that information
- ◆ **DO:** Carry out these activities under planned conditions, including procedures and training. This part of the EMS addresses the day to day activities and operations that will lead to successfully meeting the objectives previously defined and managing environmental considerations, such as implementing specific agency and service plans
- ◆ **CHECK:** Monitor and measure the key environmental parameters using the CASHE program as the basis for identification and corrective action of environmental issues
- ◆ **ACT:** Respond to the information generated by the EMS, including information on environmental performance, by making organizational and management decisions and adjustments



# HAZARDOUS MATERIAL, SOLID WASTE AND AML CLEANUP AND OTHER HAZARDS PROJECTS FUNDING MECHANISMS

## Overview

Depending upon the nature of the cleanup project, whether hazard, hazardous material, or solid waste, there are different funding mechanisms available under various Departmental and Bureau programs. Funding is not available through the EPA for Federal agencies undertaking cleanup. The following are available funding mechanisms:

- ◆ Subactivity 1640 – Hazard Management and Resource Restoration (Hazmat)
- ◆ Subactivity 1640 – Special Cleanup Fund (SCF)
- ◆ Subactivity 1010 – AML Cleanup Program
- ◆ Subactivity 2641 and 2642 – DOI CHF
- ◆ Subactivity 9210 and 9260 – DOI NRDAR

<i>Program Elements</i>
BF – Assess Hazmat Sites
BG – Assess Other Hazard
BH – Inventory AML Sites
HO – Respond to Hazmat Sites
HP – Remediate AML Physical Safety Hazards
HQ – Mitigate Other Hazards
JK – Implement AML Projects to Restore Water Quality
MG – Monitor and Maintain Hazmat & NRDAR Sites
NP – Evaluate PRPs for Cost Recovery
NQ – Process Hazmat Cost Recovery Cases
PN – Program Management

The appropriate program elements associated with each of the available funding mechanisms are shown below in Table A.

**Table A. Project Funding Mechanisms and Program Elements**

Funding Mechanisms and Respective Program Elements	Subactivity 1640 Hazmat	Subactivity 1640 SCF	Subactivity 1010 AML	Subactivity 2641 and 2642 CHF	Subactivity 9210 and 9260 NRDAR
BF	✓	✓		✓	✓
BG	✓	✓			✓
BH			✓		
HO	✓	✓		✓	✓
HP			✓		
HQ	✓	✓			
JK			✓		
MG	✓	✓	✓	✓	
NP	✓	✓	✓	✓	✓
NQ	✓	✓	✓	✓	✓
PN	✓				✓
PH			✓		

✓ Appropriate program element that can be associated with the funding mechanism

\* Additional appropriate program element that can be associated with the funding mechanism

\*In FY 2011 the BLM will be implementing a new subactivity (1620) to track cost and spending specific to AML sites.

## **Subactivity 1640 – Hazard Management and Resource Restoration (Hazmat)**

Prior to using subactivity 1640, Field Officials should consult the fiscal year justifications for allowable uses under this subactivity, and the fiscal year Annual Work Plan for funding priorities. This fund can be used for the following:

- ◆ Assess hazmat, non-hazmat, or AML sites
- ◆ Respond to hazmat or non-hazmat sites
- ◆ Monitor and maintain hazardous materials sites
- ◆ Evaluate PRPs for cost avoidance/recovery
- ◆ Process hazmat cost avoidance/recovery cases and
- ◆ Provide program support for protection of lives, resources, and property.

The following are funding priorities for this subactivity:

- ◆ **Response to hazardous materials incidents** (e.g., illegal dumping of hazardous waste, spills and sites impacting human health and the environment)
- ◆ **Environmental compliance activities** at the BLM's facilities, including corrections to CASHE environmental findings, as well as Federal and State regulator inspections
- ◆ **Emergency planning**, including oil spills and hazardous materials releases
- ◆ **High risk hazards mitigation** to protect the safety of public land visitors

All sites funded by subactivity 1640 must be entered into the BLM's Site Cleanup Module. Priority program elements for subactivity 1640 are BF, BG, HO, HQ, MG, NP, NQ, and PN.

## **Subactivity 1640 – Special Cleanup Fund (SCF)**

These funds are targeted for one-time cleanup sites that currently are not eligible for CHF funding, and require at least \$100,000 for cleanup or mitigation. These funds are used to fund non-CERCLA hazardous materials. Sites may be grouped to meet the funding threshold. For example, if a State or District/Field Office has five solid waste dumps in an area, each site projected to cost \$20,000 for cleanup, the nomination package may group the five sites for a total cost of \$100,000.

All nominations for subactivity 1640 projects must be entered into the Budget Planning System and ranked by the State and District/Field Offices for submission to the Washington Office. Nominations must clearly show the site risks pertaining to the safety of visitors, employees, or nearby communities; or the impact on resources such as water, wildlife, cultural resources, or habitat. The nominations are reviewed by a committee for ranking and prioritization. These funds cannot be used to address sites on lands acquired with existing problems during a land exchange or acquisition. Additionally, these funds cannot be used to address sites on private or other non-BLM lands.

This fund can be used for non-CERCLA hazardous materials, solid waste, and physical hazard site work; including the following (solid waste sites include illegal dumps and landfills):

- ◆ Assessment
- ◆ Sampling
- ◆ Investigation

- ◆ Removal action
- ◆ Other related cleanup activities

The following are funding priorities for this subactivity:

- ◆ Industrial dumping and petroleum sites (e.g., underground storage tanks, above ground storage tanks, oil and gas pits or disposal areas) and
- ◆ Structures with lead paint, asbestos, PCBs, and other toxic materials.

Mitigation of physical hazards also is eligible for funding through SCF. Types of physical hazard sites eligible for funding include, but are not limited to the following:

- ◆ Hot springs
- ◆ Radiation hazards
- ◆ Caves
- ◆ Landslides, mud slides or other potential catastrophic collapses or failures

As with hazardous material sites, physical hazards of a similar type in a State or District/Field Office may be aggregated to reach the \$100,000 minimum required funding. All sites funded by SCF must be entered into the BLM’s Site Cleanup Module

Priority program elements for SCF projects include BF, BG, HO, HQ, MG, NP, and NQ.

### **Subactivity 1010 – Abandoned Mine Land (AML) Cleanup Program**

These funds are targeted for environmental problems stemming from AML sites that include the following:

- ◆ Contaminated/acidic surface and ground water
- ◆ Stockpiled waste rock and mill-tailing piles
- ◆ Contaminated soils and groundwater
- ◆ Leaking chemical containers
- ◆ Physical safety hazards

<p><b><i>CWA Questions to Consider</i></b></p> <ul style="list-style-type: none"> <li>■ Where does your wastewater discharge—e.g., sewer, septic, Publicly-Owned Treatment Works (POTW) or Federally-Owned Treatment Works (FOTW)?</li> <li>■ Do you have discharges that may require permits, such as storm water outfalls?</li> <li>■ Do you have fuel tanks that require a Spill Prevention Control and Countermeasures (SPCC) Plan, and if so are those plans current?</li> </ul>
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The AML cleanups are linked directly to provisions of the CWA and typically are associated with protecting water resources.

All Field Officials should consult the fiscal year justifications and the fiscal year Annual Work Plan for funding priorities for AML projects under subactivity 1010. These projects are aimed at eliminating or reducing public health and safety dangers and detrimental environmental impacts from abandoned hard rock mines on the public lands.

The following are examples of AML environmental hazards:

- ◆ Acid mine drainage
- ◆ Mercury
- ◆ Lead
- ◆ Other heavy metal contaminated mine
- ◆ tailings

The following are examples of AML physical hazards:

- ◆ Abandoned equipment
- ◆ Structures
- ◆ Open mine shafts and adits

All sites funded by AML must be entered into the BLM's Site Cleanup Module. Priority program elements for AML-related environmental cleanup projects include JK, BH, HP, MG, NP and NQ. In FY 2011 the BLM will be implementing a new subactivity (1620) to track cost and spending specific to AML sites.



## Subactivity 2641 and 2642 – Central Hazardous Materials Fund (CHF)

These are DOI funds utilizing appropriated dollars (subactivity 2641) and third party cost recovered dollars (subactivity 2642). The CHF funds can be used for the following:

- ◆ Assess hazmat sites
- ◆ Respond to hazmat risk sites
- ◆ Monitor and maintain hazmat and NRDAR sites
- ◆ Evaluate PRPs for cost avoidance/recovery
- ◆ Process hazmat cost avoidance/recovery cases

### ***Preliminary Assessments and Site Inspections***

A Preliminary Assessment/Site Inspection (PA/SI) or state equivalent must be completed for each proposed project before requesting CHF funding.

All projects nominated for CHF funding must show a release of a hazardous substance under CERCLA and pose a credible risk to human health and the environment. If there is only the threat of a release, site nominations must clearly show the potential for release and address what the impacts of such a release would be. If there is a Federal or State Environmental Order, Notice of Violation (NOV), or National or State Priority Listing, this must be included in the nomination, as these types of sites receive preference for CHF funding. Once CHF funding is approved for a site, a Project Manager must be assigned to manage the assessment and cleanup of the site. The Project Manager must have training and/or experience in CERCLA, or have training scheduled for completion within six months of acknowledgement of CHF funding approval. The CHF funding must not be used to support new, permanent employees.

### ***Sites with the Following Receive Preference for CHF Funds***

- Federal or State Environmental Order
- Notice of Violation (NOV)
- National Priority Listing (NPL)
- State Priority Listing

The CHF Project Managers must conduct the CERCLA cost recovery/cost avoidance process and manage the CHF site in accordance with the BLM's CERCLA Response Action Handbook (1703-1). Each CHF site will be assigned solicitor support, and the Project Managers must consult with the assigned solicitor to determine whether cost recovery or cost avoidance would be the most successful strategy at the site.

All sites funded by CHF must be entered into the BLM's Site Cleanup Module. Once completed, all response actions taken at CHF sites should be entered into the Management Information System under program element HO (i.e., respond to hazmat sites).

Priority program elements for CHF projects include BF, HO, MG, NQ and NP.

## Subactivity 9210 and 9260 – Natural Resource Damage Assessment and Restoration (NRDAR)

These funds are available from the DOI NRDAR Program through appropriated dollars (subactivity 9210), and third party cost recovered dollars (subactivity 9260). The purpose of NRDAR is to ascertain injuries to natural resources, and to implement appropriate actions to restore and protect those resources for present and future generations. Damage assessment activities identify and quantify injury and provide the basis for legal action against the responsible parties, often leading to negotiated settlements.

Funding is for the following:

- ◆ Assess damages from CERCLA hazardous substance releases or oil discharges
- ◆ Respond to hazmat risk sites

- ◆ Evaluate PRPs for cost avoidance/recovery
- ◆ Process hazmat cost avoidance/recovery cases
- ◆ Provide program support for the protection of lives, resources, and property

Field and/or Project Managers should assess all sites receiving funding from CHF and determine whether to file a NRDAR damage claim for recovery of costs from responsible parties for restoring damaged resources and the lost use of resources. If a potential damage claim is identified and a viable responsible party is present, an application for NRDAR assessment funding can be made. The applicant must propose the site for possible funding to the Washington Office during the annual request for NRDAR assessment proposals. The BLM technical representative will then work with the applicant to fill out the necessary paperwork for project funding. All sites funded by NRDAR must be entered into the BLM's Site Cleanup Module.

Appropriate program elements for NRDAR projects include BF, BG, HO, NP, NQ, and PN.

## COMMON ENVIRONMENTAL STATUTES COVERED BY THIS GUIDE

**Clean Water Act (CWA);** 33 U.S.C. ss/1251 et seq. (1977):

<http://www.epa.gov/region5/water/cwa.htm>

**Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)** :42 U.S.C. s/s 9601 et seq. (1980) - <http://www.epa.gov/superfund/policy/cercla.htm>

**Federal Land Policy and Management Act of 1976 (FLPMA):**

[http://www.access.gpo.gov/uscode/title43/chapter35\\_subchapteri\\_.html](http://www.access.gpo.gov/uscode/title43/chapter35_subchapteri_.html)

**Henry F. Habicht II, Memorandum: EPA Definition of Pollution Prevention.** U.S. Environmental Protection Agency, May 28, 1992 <http://www.epa.gov/ttn/nsr/gen/memo-u.html>.)

**National Environmental Policy Act of 1969 (NEPA):** 42 U.S.C. 4321-4347

<http://www.epa.gov/Compliance/basics/nepa.html>

**Occupational Safety and Health Act (OSHA):** 29 U.S.C. 651 et seq. (1970) -

<http://www.epa.gov/lawsregs/laws/osha.html> or <http://www.OSHA.gov>

**Oil Pollution Act of 1990 (OPA):** 33 U.S.C. 2702 to 2761 -

<http://www.epa.gov/lawsregs/laws/opa.html>

**OSHA regulation 29 CFR 1910.120; Hazardous Waste Operations and Emergency Response:**

[http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=standards&p\\_id=9765](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=9765)

**OSHA Regulation 29 CFR 1910.132 General Requirements;**

[http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=9777](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9777)

**Pollution Prevention Act (PPA):** 42 U.S.C. 13101 and 13102, s/s et seq. (1990) -

<http://www.epa.gov/lawsregs/laws/ppa.html>

**RCRA Hazardous Waste Storage Requirements:** 40 CFR 264 -

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=21196bb7f52416de2f178fa387c98304&tpl=/ecfrbrowse/Title40/40cfr264\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=21196bb7f52416de2f178fa387c98304&tpl=/ecfrbrowse/Title40/40cfr264_main_02.tpl)

**RCRA Hazardous Waste Storage Requirements:** 40 CFR 265 -

[http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=21196bb7f52416de2f178fa387c98304&tpl=/ecfrbrowse/Title40/40cfr265\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=21196bb7f52416de2f178fa387c98304&tpl=/ecfrbrowse/Title40/40cfr265_main_02.tpl)

**Resource Conservation and Recovery Act (RCRA):** 42 U.S.C. s/s 321 et seq. (1976) -

<http://www.epa.gov/lawsregs/laws/rcra.html>

**Safe Drinking Water Act (SDWA):** 42 U.S.C. s/s 300f et seq. (1974) -

<http://www.epa.gov/lawsregs/laws/rcra.html>

**Superfund Amendments and Reauthorization Act (SARA):** 42 U.S.C.9601 et seq. (1986) -

<http://www.epa.gov/superfund/policy/sara.htm>

**The National Contingency Plan (NCP);** 40 CFR 300:

[http://www.access.gpo.gov/nara/cfr/waisidx\\_05/40cfr300\\_05.html](http://www.access.gpo.gov/nara/cfr/waisidx_05/40cfr300_05.html)

## TRAINING RESOURCES FOR MANAGERS

### National Training Center

The BLM's National Training Center (NTC) offers more than 200 courses annually, making it a primary source for the BLM's staff training in natural resources and leadership. In addition to the use of its modern, well-equipped classrooms, the NTC is a leader in instructional television and produces courses that are broadcast via satellite to more than 130 BLM Satellite Network sites nationally.

### The Manager's Toolkit for Environmental Compliance and Pollution Prevention

The NTC has a course that is specifically designed for managers of Federal land management agencies. This training can be delivered directly to your office through a series of video tapes. The course goal is to provide participants with procedural and decision-making tools to help with the following:

- ◆ Promoting compliance with environmental laws
- ◆ Protecting public health and safety and the environment from hazardous materials and
- ◆ Improving interagency cooperation.

The course is divided into the following series of modules that address each environmental area in greater detail:

#### **Module 1 - The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA)**

Topics include:

- ◆ Responsibilities and Liabilities
- ◆ Release Reporting
- ◆ Clean Up Liability
- ◆ Safety

#### **Module 2 - The Federal Facilities Compliance Act and the Resource Conservation and Recovery Act (FFCA and RCRA)**

Topics include:

- ◆ Responsibilities and Liabilities
- ◆ Scope of FFCA and Facilities Covered
- ◆ Hazardous Waste Generator Status
- ◆ Solid Waste
- ◆ Underground and Above Ground Storage Tanks

#### **Module 3 - The Emergency Planning and Community Right-to-Know Act (EPCRA) and Special Pollution Management**

Topics include:

- ◆ Emergency Planning
- ◆ Community Right to Know
- ◆ Emergency Release Notification
- ◆ MSDS
- ◆ Special Pollution Management

**Module 4 - Safety and the Occupational Safety and Health Act (OSHA), Hazardous Materials Regulations of the Department of Transportation, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)**

Topics include:

- ◆ OSHA
- ◆ Hazard Communications
- ◆ MSDS
- ◆ Hazardous Waste Operation and Emergency Response (HAZWOPER)
- ◆ Incident Response
- ◆ DOT Regulations
- ◆ FIFRA

**Module 5 - The Clean Air Act (CAA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA), and Spill Prevention Control and Countermeasures (SPCC) Plan**

Topics include:

- ◆ National Ambient Air Quality Standards (NAAQS)
- ◆ Air Conformity
- ◆ SIPs
- ◆ CWA
- ◆ Point Source Pollution
- ◆ SDWA
- ◆ SPCC
- ◆ Public Water Systems
- ◆ Environmental Justice

**Module 6 - Environmental Management Systems, Internal / External Communications**

\* Please contact the NTC Hazardous Materials Training Coordinator at (602) 906-5500 for more information on this and similar courses.



## THE BLM'S ENVIRONMENTAL RESOURCES

### Abandoned Mine Land (AML)

Abandoned Mine Land State Program Leads		
Paul Krabacher	Alaska	(907) 267-3266
Vacant	NTC	(602) 906-5604
William L. Harris	Arizona	(602) 417-9348
Vacant	California	(916) 978-4400
Barbara Hite	Colorado	(303) 239-3711
Mike Browne	Idaho	(208) 373-3874
Peter Bierbach	Montana	(406) 896-5033
Chris Ross	Nevada	(775) 801-6521
Bill Auby	New Mexico	(505) 954-2159
John Barber	Oregon	(503) 808-6538
Terry Snyder	Utah	(801) 539-4026
Ed Heffern	Wyoming	(307) 775-6259

### Hazardous Materials (Hazmat) Program Leads

Hazardous Materials State Office Program Leads		
Paul Krabacher	Alaska	(907) 267-1206
William L Harris	Arizona	(602) 417-9348
Vacant	California	(916) 978-4400
David Jevons	Colorado	(303) 239-3600
Singh Ahuja	Eastern States	(414) 297-4429
Mike Browne	Idaho	(208) 373-3864
Peter Bierbach	Montana	(406) 896-5033
Robert Kelso	Nevada	(775) 861-6570
Link Lacewell	New Mexico	(505) 438-7424
John Barber	Oregon	(503) 808-6538
Lowell Jeffcoat	Utah	(801) 539-4250
Ken Henke	Wyoming	(307) 775-6041
Hazardous Materials Program Center Leads		
Vacant	NOC	(303) 236-1143
Linda Costa (Training Coordinator)	NTC	(602) 906-5574

## National Operations Center (NOC)

Branch of Program Operations		
Vacant	Division Chief	(303) 236-1143
Elsie Pacheco	Staff Assistant	(303) 236-1726
Vacant	Water Quality Spec.	(303) 236-0103
Vacant	Toxicologist	(303) 236-6622
Kris Doebbler	Environmental Engineer	(303) 236-3350
Brent Lewis	Geophysical Survey Specialist	(303) 236-0550
Paul Meyer	Resource Damage Specialist	(303) 236-8858
Susan Buntrock	Environmental Engineer	(303) 236-1172
Vacant	Environmental Protection Specialist	(303) 236-0206
Janet Youngdahl	Environmental Law Specialist	(303) 236-6282

## Washington Office Division of Environmental Quality and Protection

Washington Office Division of Environmental Quality and Protection (WO-280)		
Nancy Dean	Division Chief	(202) 912-7136
Bill Ypsilantis	Deputy Division Chief	(202) 912-7163
<b>L Street Staff</b>		
Miyoshi Stith	Hazardous Materials Program Lead	(202) 912-7452
Georgette Fogle	Hazardous Materials Program Analyst	(202) 912-7142
Keith Tyler	Hazardous Materials Program Environmental Protection Specialist	(202) 912-7138
Robert Jolley	Hazardous Materials Program Environmental Engineer	(202) 912-7126
Stephanie Odell	Abandoned Mine Land Program Lead	(202) 912-7133
Erinn Shirley	Abandoned Mine Land Specialist	(202) 912-7132
Ron McCormick	Ecologist	(202) 912-7135

## ACRONYMS AND ABBREVIATIONS

<b>AAI</b>	All Appropriate Inquiry
<b>AML</b>	Abandoned Mine Land
<b>BLM</b>	Bureau of Land Management
<b>CAA</b>	Clean Air Act
<b>CASHE</b>	Compliance Assessment for Safety, Health, and the Environment
<b>CERCLA</b>	Comprehensive Environmental Response, Compensation, and Liability Act (a.k.a. "Superfund")
<b>CESQG</b>	Conditionally Exempt Small Quantity Generator
<b>CFR</b>	Code of Federal Regulations
<b>CHF</b>	Central Hazardous Materials Fund
<b>CIP</b>	Community Involvement Plan
<b>CWA</b>	Clean Water Act
<b>DEQP</b>	Division of Environmental Quality and Protection
<b>DOI</b>	Department of the Interior
<b>DOT</b>	Department of Transportation
<b>EMS</b>	Environmental Management Systems
<b>EO</b>	Executive Order
<b>EP</b>	Environmental Professional
<b>EPA</b>	Environmental Protection Agency
<b>EPCRA</b>	Emergency Planning and Community Right-to-Know Act
<b>ESA</b>	Environmental Site Assessment
<b>ESF</b>	Emergency Support Function
<b>FFCA</b>	Federal Facilities Compliance Act
<b>FIFRA</b>	Federal Insecticide, Fungicide, and Rodenticide Act
<b>FLPMA</b>	Federal Land Policy and Management Act of 1976
<b>FOTW</b>	Federally-Owned Treatment Works
<b>FRP</b>	Federal Response Plan
<b>HAZWOPER</b>	Hazardous Waste Operation and Emergency Response
<b>HAZMAT</b>	Hazard Management and Resource Restoration
<b>JRT</b>	Joint Response Team
<b>MSDS</b>	Material Safety Data Sheet
<b>NAAQS</b>	National Ambient Air Quality Standards
<b>NCP</b>	National Oil and Hazardous Substances Pollution Contingency Plan (a.k.a., National Contingency Plan)
<b>NEPA</b>	National Environmental Policy Act
<b>NIOSH</b>	National Institute for Occupational Safety and Health
<b>NOC</b>	National Operations Center
<b>NOV</b>	Notice of Violation

<b>NPFC</b>	National Pollution Fund Center
<b>NPL</b>	National Priorities List
<b>NRC</b>	National Response Center
<b>NRDAR</b>	Natural Resource Damage Assessment and Restoration
<b>NRF</b>	National Response Framework
<b>NRS</b>	National Response System
<b>NRT</b>	National Response Team
<b>NTC</b>	National Training Center
<b>OEPC</b>	Office of Environmental Policy and Compliance
<b>OPA</b>	Oil Pollution Act of 1990
<b>OSC</b>	On-Scene Coordinator
<b>OSHA</b>	Occupational Safety and Health Administration (or Act)
<b>PA</b>	Preliminary Assessment
<b>PCB</b>	Polychlorinated Biphenyl
<b>POTW</b>	Publicly-Owned Treatment Works
<b>PPA</b>	Pollution Prevention Act of 1990
<b>PPE</b>	Personal Protective Equipment
<b>PRP</b>	Potentially Responsible Party
<b>RCRA</b>	Resource Conservation and Recovery Act
<b>RRT</b>	Regional Response Team
<b>SARA</b>	Superfund Amendments and Reauthorization Act
<b>SCF</b>	Special Cleanup Fund
<b>SDWA</b>	Safe Drinking Water Act
<b>SERC</b>	State Emergency Response Committee
<b>SI</b>	Site Inspection
<b>SIP</b>	State Implementation Plan
<b>SPCC</b>	Spill Prevention Control and Countermeasures
<b>UFC</b>	Uniform Fire Code
<b>USCG</b>	United States Coast Guard
<b>UST</b>	Underground Storage Tank