§ 300.410 Removal site evaluation.

(a) A removal site evaluation includes a removal preliminary assessment and, if warranted, a removal site inspection.

(b) A removal site evaluation of a release identified for possible CERCLA response pursuant to §300.415 shall, as appropriate, be undertaken by the lead agency as promptly as possible. The lead agency may perform a removal preliminary assessment in response to petitions submitted by a person who is, or may be, affected by a release of a hazardous substance, pollutant, or contaminant pursuant to §300.420(b)(5).

(c)(1) The lead agency shall, as appropriate, base the removal preliminary assessment on readily available information. A removal preliminary assessment may include, but is not limited to:

(i) Identification of the source and nature of the release or threat of release;
(ii) Evaluation by ATSDR or by other sources, for example, state public health agencies, of the threat to public health;
(iii) Evaluation of the magnitude of the threat;
(iv) Evaluation of factors necessary to make the determination of whether a removal is necessary; and
(v) Determination of whether a nonfederal party is undertaking proper response.

(2) A removal preliminary assessment of releases from hazardous waste management facilities may include collection or review of data such as site management practices, information from generators, photographs, analysis of historical photographs, literature searches, and personal interviews conducted, as appropriate.

(d) A removal site inspection may be performed if more information is needed. Such inspection may include a perimeter (i.e., off-site) or on-site inspection, taking into consideration whether such inspection can be performed safely.

(e)(1) As part of the evaluation under this section, the OSC shall determine whether a release governed by CWA section 311(o)(1), as amended by OPA section 4201(a), has occurred.
(2) If such a release of a CWA hazardous substance has occurred, the OSC shall determine whether the release results in a substantial threat to the public health or welfare of the United States. Factors to be considered by the OSC in making this determination include, but are not limited to, the size of the release, the character of the release, and the nature of the threat to public health or welfare of the United States. Upon obtaining relevant elements of such information, the OSC shall conduct an evaluation of the threat posed, based on the OSC’s experience in assessing other releases, and consultation with senior lead agency officials and readily available authorities on issues outside the OSC’s technical expertise.

(f) A removal site evaluation shall be terminated when the OSC or lead agency determines:

1. There is no release;
2. The source is neither a vessel nor a facility as defined in §300.5 of the NCP;
3. The release involves neither a hazardous substance, nor a pollutant or contaminant that may present an imminent and substantial danger to public health or welfare of the United States;
4. The release consists of a situation specified in §300.400(b)(1) through (3) subject to limitations on response;
5. The amount, quantity, or concentration released does not warrant federal response;
6. A party responsible for the release, or any other person, is providing appropriate response, and on-scene monitoring by the government is not required; or
7. The removal site evaluation is completed.

(g) The results of the removal site evaluation shall be documented.

(h) The OSC or lead agency shall ensure that natural resource trustees are promptly notified in order that they may initiate appropriate actions, including those identified in subpart G of this part. The OSC or lead agency shall coordinate all response activities with such affected trustees.

(i) If the removal site evaluation indicates that removal action under §300.415 is not required, but that remedial action under §300.430 may be necessary, the lead agency shall, as appropriate, initiate a remedial site evaluation pursuant to §300.420.

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