

SUPERFUND MEMORANDUM OF AGREEMENT ADDENDUM II
BETWEEN THE
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
AND THE
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 5

I. PURPOSE

The Michigan Department of Environmental Quality (MDEQ) and the United States Environmental Protection Agency, Region 5 (Region 5) have entered a Superfund Memorandum of Agreement (SMOA). Among other things, the SMOA establishes operating procedures for general coordination and communication between the MDEQ and Region 5 regarding the Superfund program. Pursuant to Part II.A. of the SMOA, the MDEQ has been designated lead agency for remedial activities at selected sites in the state of Michigan. The purpose of this addendum is to further define the roles and responsibilities of Region 5 and the MDEQ with respect to activities conducted at state enforcement lead sites.

II. BACKGROUND

The MDEQ and Region 5 recognize the importance of facilitating the cleanup of sites by Potentially Responsible Parties (PRPs). Both agencies agree that it is in the best interest of the environment and the Superfund program to exercise their authorities and use their resources in mutually complementary ways and to minimize the duplication of effort, especially in the area of remedial enforcement.

The MDEQ has long been involved in remedial enforcement activities at federal Superfund sites, as co-signatories with Region 5 on various consent decrees and through management assistance grants. In addition, using enforcement authority pursuant to Part 201 of the Natural Resources and Environmental Protection Act, 1994 PA 451 (formerly known as the Michigan Environmental Response Act), the MDEQ has entered into enforceable agreements with PRPs that require the PRPs to perform investigations and/or cleanups at sites of environmental contamination. Based on both of the above factors, the MDEQ has been designated as the lead agency at selected sites in the state of Michigan appearing on the National Priorities List (NPL). These sites are designated as state enforcement lead sites.

Region 5 recognizes that the MDEQ has implemented this law (Part 201), and has the ability to select and implement cleanups that are protective of human health and the environment.

III. PRINCIPLES

For those state enforcement lead sites in Michigan that have been investigated and/or remediated in compliance with Part 201 and for which the MDEQ has approved a Remedial Action Plan (RAP), Region 5 will not plan or anticipate any federal response action under the Comprehensive Environmental Response, Compensation and Liability Act unless, in exceptional circumstances, conditions at the property are such that the site may pose an imminent and substantial endangerment to public health or welfare or the environment or an emergency situation. Region 5 will consult with the MDEQ, and give the MDEQ an opportunity to correct such non-compliance with the approved RAP, prior to making a determination that federal response action is necessary at any state enforcement lead site. The Region 5 decision not to take federal response action unless the site poses an imminent and substantial endangerment or emergency will apply to both current and future state enforcement lead investigations and cleanups.

When a state enforcement lead site has been remediated in compliance with Part 201 pursuant to a RAP approved by the MDEQ, MDEQ will request via letter to EPA that deletion from the NPL be initiated. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the criteria in 300.425(e) (1) has been met. After making this determination, Region 5 will initiate the process required to delete the site from the NPL.

Region 5 will work with the MDEQ to remove any concerns about federal activity under Superfund so as to encourage the investigation and/or remediation of NPL sites in Michigan by PRPs in accordance with Part 201 and under the direction of the MDEQ.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

(Original signed March 14, 1997) Date _____
William E. Muno, Director
Superfund Division

STATE OF MICHIGAN

(Original signed March 24, 1997) Date _____
Russell J. Harding, Director
Michigan Department of
Environmental Quality