



Office of Land and Emergency Management Considerations and Posture for COVID-19 Pandemic

March 19, 2020

Overview

As the Agency and the Office of Land and Emergency Management (OLEM) continues to adjust to the evolving COVID-19 pandemic, it is important to make decisions and establish a posture related to our critical work. Our decisions and posture remain consistent with the Agency's Pandemic Plan and/or developing guidance from the Department of Health and Human Services and the Office of Personnel Management as well as consistent with the [updated guidance](#) from OMB and EPA regarding operating status. Most recently, guidance from EPA on March 15th, 2020, includes a message from Administrator Wheeler indicating that, "Effective Monday, March 16, all employees with a telework agreement across the EPA may, to the extent possible, begin teleworking at least through Friday, April 3." These directives highlight the need to implement widespread telework to maintain social distancing and minimize the impacts of COVID-19. The following considerations and posture should be adopted by the Regions to ensure the program is able to carry out our Primary Mission Essential Function (PMEF). Specifically, EPA's PMEF is to prevent, limit, mitigate or contain chemical, oil, radiological, biological, and hazardous materials during and in the aftermath of an accident, natural or man-made disaster in the United States, and provide environmental monitoring.

Considerations and Posture

The following should be considered by Superfund and Emergency Management Division Directors (SEMDDs) and Land Chemicals and Redevelopment Division Directors (LCARDDs) in conjunction with their specific program office Branch Chiefs (e.g., Removal, Remedial, Federal Facilities, UST, RCRA corrective action). Readiness to perform the PMEF is the highest priority and is to be maintained. As always, the Headquarters EOC (HQEOC) is available and can help coordinate assistance (back-up regions, special teams, etc). Outside of the PMEF and Emergency Response, SEMDDs and LCARDDs should determine needed work on a case-by-case basis for removal, remedial, leaking underground storage tank (LUST), RCRA Corrective Action cleanups and Federal Facility sites by considering both the regional and/or local COVID-19 situation and threat(s) posed by the release/site. EPA Regional and Special Teams response personnel (response personnel), in consultation with their leadership should ensure that the response personnel health and safety are protected

as they respond to discharges of oil or releases of hazardous substances as well as pollutants or contaminants that pose an imminent or substantial endangerment.

The Regions should evaluate and, as appropriate, periodically re-evaluate the status of ongoing removal, remedial, LUST, and RCRA corrective action work at sites in the Region considering effect(s) of COVID-19 related measures on sites, surrounding communities, contractors and EPA Regional personnel. As applicable, especially in areas where local health declarations are in effect due to COVID-19, Regions should consider whether to continue site operations or secure a site, until the public health threat associated with the declaration is resolved. If there are no local health declarations that prohibit or discourage construction, investigation or design activity, Regions should anticipate that ongoing cleanup operations will continue. Regions should also consider both construction and post-construction activities. Regional representative travel to an active cleanup site should consider any local health department restrictions or advisories, the logistics associated with the necessary travel, the timing of the travel (i.e., can it be delayed or postponed) and other factors that address federal travel.¹

Additional recommendations include the following:

- Ensure that Phone Duty Officers' connectivity and availability is maintained throughout any implementation of telework.
- R1 and R2 Responders (where applicable) maintain connectivity and availability to respond, including ensuring availability of response equipment and vehicle. Note the guidelines to allow Government Owned Vehicles (GOVs) to be taken home for non-site work. See contingency determination section below for additional information.
- Regions should develop a plan to maintain connectivity and staffing for REOCs to maintain situational awareness with HQEOC.
- Regions and special teams should develop plans to continue Emergency Response responsibilities (Phone duty, R1, and R2, as applicable). This should include a contingency staffing plan for personnel that may be unable to respond due to illness or quarantine.
- Regions should develop a plan to ensure their ability to support a response under a mission assignment for an emergency or major disaster declaration under Stafford Act.
- Consistent with the OMB Travel Memoranda and the above guidance, Regions and special teams should also develop a similar plan to ensure that contract support (e.g., ERRS, START, SERAS, ESO, DES) and/or support through interagency agreements and cooperative agreements is maintained for emergency responses and removal, LUST, RCRA corrective action, remedial, and Federal facility site work. This support includes ensuring contracting officers and contract personnel are available and can safely deploy (see bullet below), as appropriate.
- For areas where mitigation activities (e.g., travel restrictions, social distancing, health screening) are being deployed to reduce the spread of COVID-19, Regions should familiarize themselves with the applicable restrictions. Regions should work with their local, state, and tribal public health officials to ensure essential response

¹ <https://www.whitehouse.gov/wp-content/uploads/2020/03/M-20-14-travel-guidance-OMB-1.pdf>

personnel (i.e., OSCs, RPMs, CICs) can access critical resources and/or sites. Regions should also ensure that response personnel (OSCs, RPMs, CICs and response contractors) have, or can readily access, the necessary personal protective equipment²³ to respond to an environmental emergency in an area that is employing active mitigation for COVID-19.

- Regions should proactively coordinate with and advise their state, tribal, and local partners of any changes at sites where they may have shared equities.
- For Federal facility and Remedial sites, Regions should proactively coordinate with the Lead Federal Agency or responsible party to ensure site response actions are conducted in a manner that considers the appropriate approach for COVID-19, as necessary.

Use of GOVs and Potential Use of the Contingency Determination

The Passenger Carrier Use Statute (31 U.S.C. 1344) expressly limits the use of GOVs for official purposes. This means OSCs are not permitted to use their GOVs for home-to-work transportation or to station their vehicles at their residences, unless expressly allowed under statute or allowed via a determination by the Administrator or because of a clear and present danger, an emergency, or other compelling operational considerations.

On December 13, 2019, the EPA Administrator signed a “Contingency Determination” that permitted the use of GOVs for home-to-work transportation under certain prescribed circumstances that would prevent or significantly delay OSCs from responding to an environmental emergency due to a lack of access to their assigned GOVs⁴ The Contingency Determination covers man-made and natural disruptions that would interrupt (or likely interrupt) an OSC’s ability to perform his/her essential duties as EPA’s first responders to environmental emergencies. Those circumstances were designed to cover major storms, transit disruptions, and/or national security events that would prevent OSCs from the timely retrieval of Agency resources required to perform their official and essential duties. The contingency determination would not apply to cases in which an EPA office, facility, or outpost encourages or requires personnel to telework, unless access to building facilities and associated GOVs are prohibited or transportation access is restricted within the locality. **Therefore, the use of the contingency determination does not currently apply to the circumstances related to the COVID-19 situation and any telework/social distancing that the Agency or OPM may apply.**

However, the EPA Administrator could determine that circumstances, such as a pandemic disease, present a compelling operational consideration for OSCs to have ready access to GOVs at their telework location (i.e., their residences) for up to 15 days with subsequent renewals for 90 day increments. This determination has not

² www.osha.gov/coronavirus

³ <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>

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https://usepa.sharepoint.com/sites/OLEM/PROD/RemovalGuidancePolicy/Shared%20Documents/Use_of_Government_Owned_Vehicles_for_Home_to_Work_Transportation_2019.pdf

yet been made, but as the situation with the COVID-19 continues to develop, the National ER&R program leadership will continue discussions with other HQ components (e.g., OMS, OCIR, OA) and seek such a determination, as appropriate.

Finally, when the use of GOVs for home-to-work transportation is invoked under the Passenger Carrier Use Statute, the Agency is required to promptly notify both the U.S. House of Representatives Committee on Oversight and Reform and the U.S. Senate Committee on Homeland Security and Government Affairs. Notifications must be transmitted through EPA's Office of Congressional and Intergovernmental Relations. For questions, please contact Ann Sisson of the Office of General Counsel at Sisson.ann@epa.gov or at 202-564-5469 or Mark Baldwin of the Office of Emergency Management at Baldwin.mark@epa.gov or at 202-564-4351.