

MEMORANDUM OF AGREEMENT
BETWEEN THE
MISSOURI DEPARTMENT OF NATURAL RESOURCES
AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION VII

I. Purpose

The Missouri Department of Natural Resources (MDNR) and Region VII of the United States Environmental Protection Agency (Region VII), enter into this Memorandum of Agreement (MOA), for the purposes of acknowledging the adequacy of the MDNR Voluntary Cleanup Program (VCP) and defining the roles and responsibilities of Region VII and MDNR with respect to activities conducted under the authority of the MDNR VCP.

The MDNR and Region VII agree that the following categories of sites shall be ineligible for consideration under the VCP:

1. Sites that are listed on, or are proposed for listing on the National Priorities List (NPL).
2. Sites where conditions at the site constitute an imminent and substantial endangerment to human health or the environment.
3. Sites where a site investigation has been completed by Region VII or MDNR under the authority of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq. (CERCLA), and which have scored above 28.5 using the hazard ranking prescore method.
4. Sites with facilities which are permitted facilities or interim status facilities under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (RCRA).
5. Sites which warrant enforcement action for cleanup under RCRA, CERCLA or the Missouri Hazardous Waste Management Law.

This MOA will apply to all sites given VCP Letters of Completion by MDNR on or after the effective date of this MOA.

II. Background

Region VII and MDNR believe the revitalization of contaminated properties, or properties perceived to be contaminated, (often called "Brownfields") will provide a significant benefit to the environment and economies of the local communities of the state of Missouri. To the extent possible, Region VII and MDNR seek to simplify the revitalization of industrial and commercial properties by addressing the existing regulatory impediments to the financing, transfer, and appropriate use of these properties. Both agencies will work in a cooperative and coordinated effort to ensure that successful implementation of this endeavor is accomplished and pledge to employ their authorities and their resources in mutually complementary, non-duplicative methods.

Region VII and MDNR seek to protect human health and the environment by encouraging the voluntary investigation and cleanup of properties in Missouri by implementing the following strategic goals:

1. Promoting appropriate investigations and cleanups by groups/individuals participating in the VCP.
2. Developing partnerships between Region VII, MDNR, other state and local governmental agencies and external stakeholders in Missouri, including representatives from citizen/community groups and the private sector.
3. Providing necessary information to property owners, prospective purchasers, lenders, public and private developers, citizens, municipalities, counties, and elected officials to allow for informed decision-making.
4. Providing meaningful public involvement activities to ensure that the public affected is informed of and involved in planning for response actions related to the VCP. Activities that inform the public may include: (a) notifications to local government officials and/or community groups; and (b) following notifications, appropriate public involvement may be pursued as site interest merits.
5. Promoting mitigation of exposure to contaminated media cost-effectively, consistent with projected future uses at the sites and applicable Federal and State law.
6. Promoting long-term reliability when approving mitigation measures for the sites.

To accomplish these goals, Region VII will help and support MDNR in further developing and expanding the use of the VCP. Region VII recognizes the VCP as instrumental in developing and implementing successful strategies to help promote voluntary investigation, cleanup, and revitalization of Brownfields properties. The MDNR will assist and support efforts to promote and implement the Region VII Brownfields initiatives. The MDNR and Region VII recognize each other as key partners in the ongoing success of the VCP.

III. Implementation

The MDNR and Region VII will work in a coordinated effort to ensure there is no duplication of effort at sites, and that site cleanups continue in a timely fashion. MDNR will notify Region VII when sites are being addressed under the VCP.

Once all necessary response actions at all involved portions of a site are complete, Region VII will archive from CERCLIS those sites remediated under the authority of the VCP and for which MDNR has issued a Letter of Completion. At a minimum, MDNR and Region VII should discuss the status of sites quarterly.

When a site in Missouri has been or is being remediated according to the practices and procedures of the VCP, Region VII will not plan or anticipate any Federal action under CERCLA or RCRA at such site unless: (a) MDNR is unable to ensure completion of response actions at sites where the VCP applicant fails or refuses to complete the necessary action in a timely manner; or (b) Region VII determines that the site presents an imminent and substantial danger to the public health or welfare or the environment, including emergency situations, and the Region has determined that Federal action is warranted.

When a site has been remediated according to the practices and procedures of the VCP and MDNR has issued a completion letter Region VII will not pursue Federal action at the site except as stated in preceding paragraph.

In all cases, the Region VII decision not to take federal response action for sites implementing investigation and cleanup under the VCP will be based strictly on the information available at the time of the MDNR determination concerning the site.

If, following issuance of a Letter of Completion by MDNR, conditions at the site, previously unknown to MDNR or Region VII, indicate that the response action undertaken pursuant to the VCP is not protective of human health and the environment, MDNR and Region VII reserve the right to take necessary response action to protect human health and the environment.

The MDNR will continue to demonstrate that its VCP has adequate resources to ensure that voluntary response actions are conducted in an appropriate and timely manner, and that meaningful outreach efforts are made to affected interest holders. MDNR shall continue to make available to current and prospective owners, lenders, and affected interest holders, both technical assistance and streamlined procedures to ensure adequate notification and involvement and expeditious voluntary response actions. MDNR will demonstrate that it has adequate enforcement or other authority to ensure the completion of response actions if the investigation or remediation is not properly completed under the VCP.

Region VII will continue to work with MDNR to remove any concerns about Federal activity under CERCLA and RCRA so as to encourage the financing, transfer, and appropriate development and reuse of properties in Missouri. Region VII and MDNR will provide technical assistance to local and state governmental agencies in order to facilitate the revitalization of contaminated or potentially contaminated properties in Missouri.

IV. Protectiveness

The MDNR, through the VCP shall ensure that voluntary response actions are protective of human health and the environment. Upon the assessment of a site, MDNR, through the VCP shall determine whether the site poses a threat to human health and the environment, and whether mitigation of the potential exposure of human and ecological receptors to contaminated media is warranted, consistent with applicable Federal and State law. Protective contaminant concentrations in a media will be determined by MDNR, through the VCP, consistent with projected future uses at the site.

Mitigation of exposure to contaminated media shall be conducted cost-effectively, consistent with projected future uses at the site, and consistent with applicable Federal and State law. Mitigation measures may include one or more of the following: (1) treatment of contaminated media to acceptable exposure levels; (2) containment of contaminated media to acceptable exposure levels; (3) transport to offsite treatment; or (4) restricted access to and/or use of the site through institutional controls. Long term reliability shall also be a goal when selecting response actions.

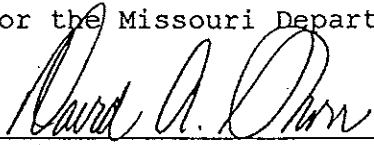
V. Reporting

On a quarterly basis the MDNR will report to Region VII on the following:

1. Number and names of sites participating in the VCP and the status of those sites;
2. Number and names of sites entering the VCP the previous quarter;
3. Sites having received Letters of Completion from the MDNR of full or partial completions in the previous quarter; and,
4. Notifications of any VCP non-completions or defaults.

This MOA has been developed by mutual cooperation and consent.

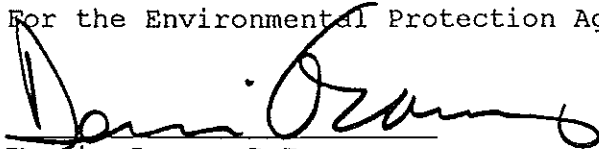
For the Missouri Department of Natural Resources



David A. Shorr, Director
Missouri Department of
Natural Resources

9-5-96
Date

For the Environmental Protection Agency



Dennis Grams, P.E.
Regional Administrator
U.S. Environmental Protection
Agency, Region VII

9-5-96
Date