

## HAZARDOUS MATERIALS MANAGEMENT

### FY 2000 and FY 2001 ANNUAL PERFORMANCE PLANS

The purposes of the USDA Hazardous Materials Management Program (HMMP) are the efficient management and cleanup of hazardous materials on facilities and lands under the jurisdiction, custody, and control of the Department and prevention of releases of hazardous substances from USDA facilities. Activities in the program are conducted pursuant to the requirements of the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA). Critical funding is provided by the Hazardous Materials Management Appropriation (HMMA).

In August 1985, USDA initiated a nationwide inventory to determine the size and scope of existing and potential environmental problems associated with hazardous substances on facilities and lands under the jurisdiction, custody, and control of the Department. The inventory identified numerous issues concerning storage, handling, and disposal of hazardous substances and wastes. The inventory also identified thousands of potential sites with releases or potential releases of hazardous substances, including underground fuel and chemical storage tanks, abandoned mines, landfills, dumps, trespass dumps, and illegal drug lab wastes. Many of these site problems are attributed to the activity of non-USDA parties on lands under Department jurisdiction, custody, and control.

The HMMA was established in 1988 to provide targeted funding for priority hazardous materials cleanup projects. The HMMA funds are distributed to the Forest Service, Agricultural Research Service, Farm Service Agency, Rural Development, Office of General Counsel, Animal and Plant Health Inspection Service, and the Food Safety and Inspection Service. Several agencies also fund this program with agency funds to meet the requirements of their mission. Annually, USDA agencies request funding for planning-year HMMP activities, revise their proposed programs of work at the start of the current fiscal year, and report HMMP accomplishments.

The Hazardous Materials Management Group (HMMG) provides day-to-day administration of the HMMP and HMMA on behalf of the Hazardous Materials Policy Council (HMPC). The HMMG recommends policies regarding management and cleanup and prepares HMMA budget requests, annual performance plans, and accomplishments reports, using data submitted by the agencies. It also provides guidance, assistance, and oversight of compliance with hazardous materials requirements by USDA programs and facilities. HMMG represents USDA on the National Response Team for oil and hazardous substances.

USDA aggressively employs its authorities under CERCLA and related executive orders to expedite cleanups. As a result, only two USDA sites are on the Superfund National Priorities List, and very few cleanups are conducted under administrative or other orders initiated by federal or state regulatory agencies. However, this proactive approach and its favorable results are dependent upon the availability of funding to address priority work.

The FY 1999 and 2000 HMMA appropriations were \$15.7 million. The request for fiscal year 2001 is \$30.073 million. The proposed funding level reflects USDA's commitment to the President's challenge to be a leader in responsible environmental cleanup and to implement the consensus principles of the Federal Facilities Environmental Restoration Dialogue Committee (FFERDC), a federally chartered advisory committee with representation from Federal, state, tribal, and local governments, non-governmental organizations, and other stakeholders. The FFERDC principles include making "a sustained commitment to completing environmental cleanups at a reasonable and defensible pace" and cleaning up "contamination in a manner that, at a minimum, protects human health and the environment." (The full set of principles appears in FFERDC's April 1996 final report.) USDA will not meet this commitment at current funding levels. Regulatory agencies and stakeholders are increasingly dissatisfied with the pace of the USDA program and the project postponements resulting from years of flat-lined appropriation. The problem is aggravated as the shift from identification of potential problems to the more expensive cleanup phase and associated investigative work continues.

The level of funding in the proposed budget for fiscal year 2001 is the minimum required to maintain progress toward the goal of completing the cleanup program by 2045. Fifty-three (53) percent of the proposed budget of \$30.073 million is for cleanup work. Another 30 percent is for investigative work to support cleanup decisions. The remaining 17 percent addresses natural resource damage assessment and restoration, technical support costs for pursuing responsible parties, pollution prevention activities, legal support, and general program management. About \$5.4 million of this request is for cleaning up abandoned and inactive mine sites on National Forests where the responsible parties may not be financially viable or no longer exist and USDA must pay the cost of meeting environmental requirements. Another \$2.2 million is for investigating these sites or overseeing work by viable responsible parties. The \$5.4 million "orphan share" of cleanup costs amounts to 18 percent of the total HMMA budget request and 44 percent of the Forest Service allocation.

**CERCLA (Superfund) Program** - About 90 percent of the fiscal year 2001 HMMA request is included in this area. The process of identifying contaminated sites is essentially complete, and funds are needed to perform the investigative work to make and support cleanup decisions, and complete the cleanup actions. When private responsible parties perform the necessary cleanup work, funds allocated for that work are redirected to other priority hazardous materials cleanup projects within the Department, including those where there may be no viable responsible parties.

**RCRA Program** - Activity under this program was focused on compliance with underground storage tank (UST) requirements, now essentially complete. However, cleanup of contamination at several former UST sites is continuing. Other RCRA activities address proper management and disposal of solid and hazardous wastes, local and regional solid waste landfills, abandoned and illegally disposed wastes, illegal drug laboratories, and shooting ranges on lands under the jurisdiction, custody, and control of USDA.

**Pollution Prevention/Source Reduction (P2/SR) Program** - These projects typically pay for themselves in under 10 years and are intended to reduce the use of hazardous materials and the generation of hazardous waste. Agencies and facilities participating in the Department's P2/SR program annually report progress under Executive Order 12856.

**Office of The General Counsel** - The Office of the General Counsel (OGC) provides legal assistance and advice to USDA mission areas and agencies for CERCLA and RCRA programs. In addition to legal services in connection with environmental defense and compliance issues, OGC provides assistance and advice in cases with parties responsible for the environmental harm. OGC provides legal counsel to the Office of the Secretary, the Under and Assistant Secretaries, HMMG, HMPC, and Agency Heads concerning environmental policy and legislative issues. OGC plays a substantial role in advising USDA agencies on compliance with applicable pollution control standards, including negotiation of federal facility compliance agreements.

### **Mission**

The Hazardous Materials Management Program mission is:

- 1) to improve and restore the environmental condition of facilities and lands under the jurisdiction, custody, and control of the Department;
- 2) to seek compensation from those responsible for contamination, and
- 3) to improve the quality of the work environment for USDA employees and cooperators through increased levels of regulatory compliance, pollution prevention, and employee environmental awareness.

This mission supports USDA Goal 3, Promote sensible management of our natural resources; Subgoal 3.2, Promote sustainable management of public lands; protect and restore critical forest land,

rangeland, wilderness and aquatic ecosystems. It complements USDA's missions of caring for agricultural, forest, and range lands; supporting sound development of rural communities; and providing economic opportunities for farm and rural residents.

This performance plan provides changes and enhancements to previous editions of strategic and annual performance plans. These specifically include:

- The word "Materials" has been substituted for "Waste" in the name of the program (HMMP) and appropriation (HMMA) to more accurately reflect the scope of the activities funded by the account. The term "hazardous waste" is a term of art under RCRA, referring to a certain subset of "solid waste." CERCLA addresses "hazardous substances," which includes RCRA hazardous waste, toxic pollutants under the Clean Water Act, hazardous air pollutants under the Clean Air Act, and other hazardous substances. The term "hazardous materials" is a more general term that encompasses all of the activities for which the appropriation is available.
- Goal #1 is reworded from "Ensure responsible management, and cleanup and restore contaminated lands and facilities" to "Improve and restore the environmental condition of facilities and lands under the jurisdiction, custody, and control of USDA." This change clarifies and simplifies the work within the scope of the goal.
- The more-general term "cleanup" or "cleanups" was substituted for "removal and remediation" or "removal and remedial actions" in the performance indicators under Goal #1 because the latter are terms of art limited to CERCLA. Although most USDA cleanups are CERCLA removal actions, a number of RCRA corrective actions, closures, and UST cleanups are also performed under this goal.
- Two earlier performance indicators under Goal #2 (i.e., number of environmental audits conducted and number of oversight reviews conducted) are combined into "Number of environmental management and compliance assessments conducted." The broader indicator was selected to allow USDA personnel flexibility when matching the assessment tools (e.g., inspections, reviews, audits) they use to the specific facility, operation, or situation.

**Goal #1:** Improve and restore the environmental condition of facilities and lands under the jurisdiction, custody, and control of USDA.

**Objective:** Cleanup and restore facilities and lands contaminated from releases of hazardous substances and materials.

**Baseline:** As of 1995, more than 2,000 sites on lands under the jurisdiction, custody, and control of USDA required investigation, cleanup, and/or environmental restoration activities. The cost estimate for addressing these sites was \$2 billion. Consistent with the FFERDC principles, USDA established the baseline goal of completing its cleanup and restoration program by 2045. Under this "countdown" approach to the HMMP baseline, annual outputs are examined to determine whether the cleanup goal is likely to be achieved by the target year.

**Program Activities:** Identify, investigate, cleanup, and restore to acceptable environmental function.

	FY 1998 Actual	FY 1999 Actual	FY 2000 Estimate	FY 2001 Estimate
Total HMMA <sup>1</sup> Funding (\$000's)	14,135.0	15,382.8	15,480.0	28,975.5
Total HMMA <sup>1</sup> FTEs	47.13 <sup>2</sup>	63.98	65.48	80.96
HMMG <sup>1</sup> Funding (\$000's)	294.6	524.5	680.0	1080.0
HMMG <sup>1</sup> FTEs	2.5	4.5	5.5	5.5

Performance Goals and Indicators	FY 1998 Actual	FY 1999 Actual	FY 2000 Target	FY 2001 Target
Beginning in 1998 and by the end of 2002 complete the cleanup of 150 sites and all regulated USTs on lands and facilities under the custody and control of USDA as required by CERCLA and RCRA.				
Number of sites assessed/characterized on need for cleanup.	49	53	78	27
Number of cleanup plans completed <sup>3</sup> .	included in cell above	9	17	12
Number of cleanups completed <sup>4</sup> .	59	42	61	22
Number of mine cleanups completed <sup>5</sup> .	12	6	12	7
Number of agreements reached with potentially responsible parties (PRPs) <sup>6</sup> .	8	7	10	10
Estimated value of cleanup/restoration work performed by PRPs (\$millions) <sup>6</sup> .	\$103.5 M	\$34 M	\$35 M	\$35 M

<sup>1</sup> Total HMMA data refers to the entire HMMP program, including support for HMMG. Total HMMG data refers only to program administration by HMMG.

<sup>2</sup> Estimated value

<sup>3</sup> Until FY99, site assessment and cleanup planning were combined. The change from the more specialized terms "removal and remedial actions" to the more generic term "cleanups" in this and the next two indicators is necessary to accommodate the broader scope of this performance indicator created by including RCRA requirements.

<sup>4</sup> Includes response actions under CERCLA, RCRA corrective action, and UST removals and cleanups.

<sup>5</sup> New performance indicator for priority activities under the Clean Water Initiative.

<sup>6</sup> Prior to fiscal year 1998, PRP and USDA cleanups were combined. The number of agreements and estimated value of cleanup work performed by PRPs will vary from year to year. Enforceable agreements are always executed when the PRP agrees to perform cleanup work.

**Discussion of Performance Goal:** This goal supports USDA Goal 3, Subgoal 3.2 in relation to the cleanup and restoration of USDA lands and facilities under the CERCLA, RCRA, and UST programs. The scope of work under this goal includes identification, investigation, and cleanup of contaminated sites; support activities such as strategic planning, management, and oversight necessary to implement the HMMP within the Department; and work in inter-governmental groups dealing with HMMP issues. It also includes the USDA review and comment process for proposed legislation and regulations that may impact Department HMMP mission activities; legal review and support necessary to ensure compliance with environmental laws and their implementing regulations; and legal representation during negotiations with responsible parties. It recognizes USDA's goal, set in 1995, of cleaning up and restoring all sites contaminated with hazardous substances on facilities or land under the jurisdiction, custody, or control of USDA by 2045. That goal requires close to a \$40 million funding level each year. At each of these sites, the agency and the Department may be subject to environmental enforcement actions and lawsuits by private parties. Fines and penalties could exceed \$25,000 per day and lawsuits could cost, in some cases, more than the funding needed to perform a timely cleanup action.

Cleanup and restoration of hazardous materials and waste sites is complex, expensive, and time consuming, often taking several years to complete. The performance goals in the table above represent only the work that is expected to be completed in fiscal years 2000 and 2001. Work on well over 100 other sites will also be started or continued. As suggested by the performance goals, the work plan for fiscal year 2001 entails, on average, larger, more complex, and more expensive projects.

Contamination at abandoned or inactive mines was generally caused by other parties, introducing another level of complexity. As provided in CERCLA, USDA is working toward having those responsible for this contamination bear the cost of cleanups. The indicators for this goal are completion of investigations and cleanup plans, negotiation and completion of agreements with responsible parties, and execution of cleanups. While the performance indicators under this goal are all outputs, the HMMP supports the larger outcome of restoring lands, facilities, and important watersheds contaminated with hazardous substances. It also supports the Presidential initiative to accelerate cleanup at CERCLA-Superfund sites and Executive Order 13016 which provides USDA with additional cleanup authorities.

**Means and Strategies:** Resources needed to attain this objective include a continuing source of funds and trained personnel, legal counsel and assistance, program oversight (including cost management and financial accounting), and program management systems to report accomplishments and develop budgets. The resources, program of planned work, and outputs identified under this objective are the minimum required. The strategy for attaining this goal includes the continued identification and ranking of projects for cleanup work. Projects are screened for the need for additional investigative or cleanup work, if any, in accordance with the National Contingency Plan (NCP). Those responsible for the contamination will be sought out for contribution to the cleanup before the Department uses the HMMA funds to conduct the cleanups. See the 1999 annual program performance report for additional information on factors affecting goal achievement.

**Verification and Validation:** USDA agencies set their targets and report their actual performance to the HMMG in their budget requests. All data is reported in a spreadsheet format that is amenable to data analysis. Agencies use a comprehensive set of environmental activities based on the NCP and other governing authorities developed by HMMG to present their planned program of work and budget request. HMMG prepares various types of data summaries to examine the consistency and quality of reported data. HMMG also conducts compliance and management reviews to supplement internal agency reviews.

By linking all reported data to a comprehensive list of standard activities defined in applicable regulations (e.g., the NCP for CERCLA preliminary assessments, site inspections, and response actions), a high level of consistency in reporting is expected. The data is examined holistically by HMMG for gaps and logical inconsistencies (e.g., funds being requested in a later year than that in which the project activity was reported as being completed). If apparent data quality problems cannot be resolved, agency personnel are contacted for assistance in correcting the problem. Since all obvious data quality problems were resolved using this process, the data is believed to be of acceptable quality.

See the 1999 annual program performance report for a discussion of data limitations.

**Goal #2:** Ensure responsible management in the use, storage, and disposal of hazardous materials and wastes.

**Objective:** Improve regulatory compliance and reduce environmental contamination through pollution prevention and improvements in management practices.

**Baseline:** Quantitative baseline data are not available. However, USDA has issued extensive guidance on regulatory compliance, and considerable resources have been expended in this area. Broad-based environmental management controls for monitoring, evaluating, and improving the environmental performance of USDA facilities exist, but considerable additional work by agencies is needed to develop and implement these controls. The point of this goal is, without unnecessarily imposing the reporting

burden on USDA agencies, to systematically identify areas in which environmental impacts, material use and disposal costs, and potential agency liabilities can be reduced by improved handling of hazardous materials and substitution of non-toxic for toxic materials in agency practices. The result of such efforts are improved compliance, reductions in toxic waste generation, and improved worker safety and environmental quality.

**Program Activity:** Management of hazardous materials and waste, oversight, and training

	FY 1998 Actual	FY 1999 Actual	FY 2000 Estimate	FY2001 Estimate
Total HMMA <sup>1</sup> Funding (\$000's)	1,565.0	317.2	220.0	1,097.5
Total HMMA <sup>1</sup> FTEs	1.75	1.30	1.60	1.13
Total HMMG <sup>1</sup> Funding (\$000's)	155.4	50.0	50.0	150.0
Total HMMG <sup>1</sup> FTE's	1.5	.5	.5	.5

Performance Goals and Indicators	FY 1998 Actual	FY 1999 Actual	FY 2000 Target	FY2001 Target
Improve compliance with RCRA Subtitle C and reduce the costs and risks associated with generation and disposal of hazardous wastes in agency operations consistent with the goals of the Pollution Prevention Act and Executive Order 12856.				
Number of environmental audits and program reviews.	17	22	15	15
Number of P2 projects completed.	1	16	1	3
Reduction in releases and offsite transfers of toxics by USDA facilities not subject to TRI reporting but voluntarily pursuing such reductions <sup>2,3</sup>	60% decrease (estimate)	n/a	50% reduction	50% reduction

<sup>1</sup> Total HMMA data refers to the entire HMMP program, including support for HMMG. Total HMMG data refers only to program administration by HMMG.

<sup>2</sup> As mandated by Executive Order 12856. Data is on a calendar year basis and is reported annually to EPA under EO 12856. TRI data for 1998 has not yet been received from all participating agencies. The baseline year is 1994.

<sup>3</sup> Voluntary reductions pursued by agencies as provided in Executive Order 12856.

**Discussion of Performance Goal:** This goal supports USDA Goal 3, Subgoal 3.2 (promoting sustainable management of public lands). By addressing regulatory compliance with RCRA and the Pollution Prevention Act, reductions in hazardous material use and hazardous waste disposal are expected. This performance goal seeks to extend "continuous improvement" and quality management practices to reducing the adverse environmental effects of USDA activities. The Secretary's overall management initiative of using quality management principles and re-engineering process is also supported. The goal also supports the President's executive order for pollution prevention. By integrating environmental considerations into USDA missions and establishing affirmative goals, USDA will become

more efficient and provide a safer work place and facilities for customers and employees. This area also monitors inclusion of environmental justice concepts into hazardous materials management in order to minimize the impact management and use of hazardous materials has on minority and low-income populations.

**Means and Strategies:** The resources needed to attain this objective include a continuing source of funds, personnel to perform or oversee needed work, and information sources to draw upon for oversight and statutory and executive order reporting. The resources, program of work, and outputs identified are the minimum needed to satisfy Administrative initiatives and Congressional requirements in this area.

**Verification and Validation:** HMMG will use program budget submissions, annual accomplishment reports, annual P2/SR reports, and program or facility reviews to assess progress. The information will be reviewed and analyzed and performance will be measured against the performance indicators.

See the 1999 annual program performance report for a discussion of data limitations.

**SUMMARY OF HAZARDOUS MATERIALS MANAGEMENT RESOURCES  
FOR FY 1999, FY 2000, AND FY 2001  
(Dollars in Thousands)  
(FTE's)**

Program Activity	GOAL 1	GOAL 2	TOTAL
FY 1998	\$14,135.0 47.13	\$1,565.0 1.75	\$15,700.0 48.88
FY 1999	\$15,382.8 63.98	\$317.2 1.30	\$15,700.0 65.28
FY 2000	\$15,480.0 65.48	\$220.0 1.60	\$15,700.0 67.08
FY 2001	\$28,975.5 80.96	\$1,097.5 1.13	\$30,073.0 82.09