

**ASTSWMO POSITION ON:
PUBLIC PARTICIPATION IN ENVIRONMENTAL CLEANUPS**

ISSUE: Meaningful Public Participation in Environmental Cleanups

BACKGROUND: Public input is essential to quality decision making. Congress was very clear in the Solid Waste Disposal Act (SWDA 7004) that the Administrator and the States should encourage and assist public participation in any regulation, guideline, information or program under the SWDA. Further, Congress directed the Administrator to work cooperatively with the States to develop the minimum guidelines for this public participation. While federal requirements have been developed for the hazardous waste permitting and enforcement programs, most States have developed alternative avenues of public involvement in environmental cleanup matters to ensure meaningful public participation without unduly delaying cleanup actions of benefit to the public.

DISCUSSION: States have learned through their experience with non-RCRA cleanups that when it comes to effective public participation, one size does not fit all. Public participation should be tailored to the level of public interest as well as to the size and type of cleanup in order to provide meaningful and appropriate opportunities for public involvement. Mandating a specific federal procedure (e.g., such as notice and opportunity for comment for each cleanup) will limit a State's flexibility to tailor requirements to reflect the level of public interest. Issues that argue for the flexibility that State public participation programs provide include: 1) tailored notice requirements to meet communities with individual language needs; 2) public comment process requirements that are tailored to the level of community interest; and, 3) recognition of the public participation needs for emergency response cleanups. The inability to tailor public participation requirements to the level of public interest can delay the cleanup process, increase the transaction costs, and still result in a less effective way to engage the public in cleanup strategies.

ASTSWMO POSITION: EPA should defer to State and local requirements on public participation. EPA's oversight of these requirements should focus on the general results of these State requirements, as follows:

Are there mechanisms to define the community and assess the interest level?

Are there timely mechanisms for the public to learn about the cleanup(s)?

Does the public have access to all public records and public documents?

Is the public encouraged to comment on activities and express concerns? Are those comments and concerns considered and responded to by the lead environmental agency?

Adopted by the ASTSWMO Board of Directors, January 12, 1998 in San Antonio, Texas.

