

**Department of the Interior's
Environmental Cleanup Liabilities
Recording and Reporting
Final Draft Handbook**

Submitted by:



Bureau of Reclamation

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LIST OF ACRONYMS

BOR	Bureau of Reclamation
CHF	Central Hazardous Materials Fund
Department	Department of the Interior
ECL	Environmental Cleanup Liability
EE/CA	Engineering Evaluation and Cost Analysis
FY	Fiscal Year
GMRA	Government Management Reform Act
LL	Lower Limit
LTM	Long-term Monitoring
OEPC	Office of Environmental Policy and Compliance
O&M	Operation and Maintenance
OMB	Office of Management and Budget
P	Probable
PMB	Office of Policy, Management, and Budget
R	Remote
RACER	Remedial Action Cost Engineering and Requirements
RCRA	Resource Compensation and Recovery Act
RI/FS	Remedial Investigation and Feasibility Study
RP	Reasonably Possible
ROD	Record of Decision
SFFAS	Statement of Federal Financial Accounting Standards
UL	Upper Limit

1.0 INTRODUCTION

Current directive from the Office of Management and Budget (OMB) requires the Department of the Interior (Department) and other federal agencies to prepare annual audited financial statements in accordance with the Chief Financial Officers Act of 1990 (Public Law 101-576) and the Government Management Reform Act of 1994 (GMRA) (Public Law 101-576). OMB also requires quarterly unaudited financial statements in accordance with OMB Bulletin 01-09, *Form and Content of Agency Financial Statements*. Per Statement of Federal Financial Accounting Standard (SFFAS) Number (No.) 5, *Accounting for Liabilities of the Federal Government*, guidance, Federal agencies are required to report information on contingent environmental liabilities in their financial reports. Agencies are required to recognize a contingent liability when a future outflow or other sacrifice of resources as a result of past transactions or events is "probable" and "measurable." As such, the Department bureaus are required to report contingent environmental liabilities to the Office of Financial Management (PFM) on a quarterly basis.

Several bureaus have developed internal guidance to ensure consistency for estimating environmental liabilities; however, inconsistencies between bureaus have prompted the PFM and the Office of Environmental Policy and Compliance (OEPC) to issue this guidance. This guidance is intended to assist the Department and its bureaus in determining probable and measurable contingent liabilities related to their environmental cleanup obligations, and provide a consistent approach for reporting contingent environmental liabilities across all bureaus.

1.1 Applicable Standards and Guidance

Contingent environmental liabilities must conform to specific governmental accounting practices including:

- *Accounting for Liabilities of the Federal Government*, Statement of Federal Financial Accounting Standards (SFFAS) Number (No.) 5, as amended, issued by the Financial Accounting Standards and Advisory Board
- *Accounting for Property, Plant, and Equipment*, Statement of Federal Financial Accounting Standards No. 6, as amended, issued by Financial Accounting Standards Advisory Board
- *Chief Financial Officers Act of 1990*, Public Law 101-576, 101st Congress- Second Session
- *Form and Content of Agency Financial Statements*, OMB Bulletin 01-09, as amended, issued by the Office of Management and Budget
- *Government Management Reform Act of 1994*, Public Law 103-356, 103rd Congress- Second Session, October 13, 1994
- *Recognition of Contingent Liabilities Arising from Litigation: An Amendment of SFFAS No. 5, Accounting for Liabilities of the Federal Government*, SFFAS No.12, issued by the Financial Accounting Standards and Advisory Board

Additional guidance developed to facilitate contingent environmental liabilities identification, cost estimating and reporting requirements include:

- *Department of the Interior, Prioritization System for Hazardous Materials Site Cleanup (EC-93-2)*, January 4, 1993
- *Determining Probable and Reasonably Estimable For Environmental Liabilities in the Federal Government*, Federal Financial Accounting and Auditing, Technical Release Number 2 (Technical Release No. 2)
- *Environmental Cleanup Liabilities and Materials Used in Facility Construction*, Director, Office of Financial Management and Director, Office of Environmental Policy and Compliance (OEPC), dated October 1, 2003
- *Updating Schedule of Sites with Potential Environmental Liability*, Assistant Secretary – Policy, Management and Budget (PMB), dated February 27, 2003 (PMB, July 2003)

1.2 Definitions

Various terms have been used to refer to contingent environmental liabilities including environmental contingent liabilities, environmental contaminant liabilities, and environmental cleanup liabilities; all using the acronym ECLs. The Department uses the terminology environmental cleanup liabilities (ECLs). The following is a list of commonly used terms found within applicable ECL estimating and reporting standards and guidance.

- **Contingency** - an existing condition, situation, or set of circumstances *involving uncertainty* as to possible gain or loss that will ultimately be resolved when one or more future events occur or fail to occur.
- **Disclosure** - information recorded in footnotes or narrative that is considered an integral part of the basic financial statements.
- **Environmental Cleanup Liability (ECL)** – Future liabilities associated with cleanup due to past or current operations that have environmental closure requirements or a release of hazardous substances, pollutants, and contaminants for which the Department is responsible.
- **Event** - A happening with financial consequence. As related to environmental cleanups, an event is a past or current operation that has environmental closure requirements or a release of hazardous substances, pollutants, or chemicals.
- **Government-acknowledged Event** - Events that are of financial consequence to the Department because it chooses to respond to the event even though it is not legally liable. Government-acknowledged environmental events are not recognized as contingent liabilities. When the government accepts financial responsibility for the event, has an appropriation, and has begun incurring costs, then any unpaid amounts for work performed are included in accounts payable.
- **Government-related Event** – Events that are of financial consequence to the Department because it 1) caused or contributed to the event, 2) is legally liable as a result of a court decision or valid administrative order, or 3) has formally agreed to assume all or part of the liability under a legally binding settlement agreement or consent decree.
- **Legally Liable** - Any duty, obligation or responsibility established by a statute, regulation, or court decision, or where the agency has agreed, in an interagency agreement, settlement agreement, or similar legally binding document, to assume

responsibility for cleanup costs. Legal liability should be determined in consultation with the entity's legal counsel.

- **Liability** – for financial accounting purposes, a future outflow or other sacrifice of resources (e.g., costs) as a result of past events or transactions for which the Department is responsible.
- **Probable** - the likelihood of a legal liability occurring is likely.
- **Reasonable Possible** – the likelihood of a legal liability occurring is more than remote, but less than probable.
- **Recognition** - reporting a dollar amount on the face of the basic financial statements.
- **Record** - estimated costs documented in the accounting system.
- **Remote** - the likelihood of a legal liability occurring is slight.
- **Report** - estimated costs recognized or disclosed on the federal financial statements.

1.3 Background

The Department has responsibility to clean up its sites with environmental contamination, and it is party to various administrative proceedings, legal actions, and tort claims that may result in settlements or decisions adverse to the federal government. The Department recognizes environmental liabilities where losses are determined to be probable and the amounts can be estimated. In accordance with federal accounting guidance, the liability for future cleanup of environmental hazards is “probable” when the government is responsible for creating the hazard or is otherwise related to it in such a way that it is legally liable to clean up the contamination.

Contamination can occur from past or current operations (such as solid waste landfills; treatment, storage, or disposal facilities; mine sites) or releases of hazardous substances, pollutants, and contaminants. These environmental events can be characterized as: 1) government-related events or 2) government-acknowledged events.

1. **Government-related Events** – Government-related environmental events are events where the Department is legally responsible for the cleanup because the Department 1) caused or contributed to a known or confirmed release of contamination, 2) is legally liable as a result of a court decision or valid administrative order, or 3) has formally agreed to assume all or part of the cost of the cleanup under a legally binding settlement agreement or consent decree.
2. **Government-acknowledged Events** – When the government is not legally liable, but chooses to accept financial responsibility, the event is government acknowledged. When the government accepts financial responsibility for cleanup, has an appropriation, and has begun incurring cleanup costs, then any unpaid amounts for work performed are included in accounts payable. Government-acknowledged environmental events are not recognized as contingent liabilities in financial statements. These environment events should be rare because as landowners, the Department *may* be legally liable even if it did not cause the contamination.

ECLs are generally considered “contingent” because, in many cases, the parties responsible for cleanup are not known and even when they are known the extent of contamination and method

and cost of cleanup is not certain and may not be for many years to come. ECLs may be recognized, disclosed, or not reported at all in financial statements depending on the likelihood of the Department's legal liability (Section 3.0). The criteria for recognizing an ECL in financial statements are as follows:

1. A government-related environmental event has occurred.
2. A future outflow or other sacrifice of resources (e.g., cost) is probable (likely).
3. The future outflow or sacrifice of resources is measurable (reasonably estimable).

The estimated cost of an ECL may be a specific amount or a range of amounts. When an ECL is classified as "probable" and an estimated cost is a range of amounts where no amount within the range is better than any other amount, the lower limit of the range is recognized. The **additional** amount beyond the recognized amount would be disclosed (see below).

If an ECL has been identified, but one or both of the conditions for recognizing an ECL is not met, the ECL should be disclosed in footnotes (unless the likelihood is remote) in annual financial statements. An ECL should be disclosed if there is at least a reasonable possibility that a future cost will incur for which the Department is legally liable or an additional cost above that which was recognized may incur. Disclosure should include:

1. the nature of the ECL
2. an estimate of the possible costs
3. an estimate of the possible range of costs
4. or a statement that a cost estimate cannot be made at this time

When the degree of uncertainty associated with the Department's liability is great, it is not necessary to report (i.e., recognize or disclose) the ECL in financial statements. Specifically, if the likelihood of incurring a future cost is remote, the ECL can be recorded in the ECL database, but need not be reported. The Department considers ECLs associated with government-acknowledged events to be remote.

The following sections present the processes by which an ECL is identified and classified, and how cleanup costs are estimated, recorded and reported. The processes are illustrated in Figure 1.

2.0 ECL IDENTIFICATION

Department bureaus will exercise due care (as described below) to determine the presence of contamination. If after exercising due care, a bureau believes it is unlikely that contamination exists for which the bureau would be responsible to clean up, an ECL does not exist (Figure 1, Step 1). If after exercising due care, the presence of contamination is known or uncertain, and it has been determined that the bureau will be responsible for the cleanup, an ECL exists. Next, the bureau must determine whether the contamination or potential contamination is government related and the bureau is legally liable (Section 3.0).

Figure 1: ECL Identification, Classification, Cost Estimating, Recording and Reporting

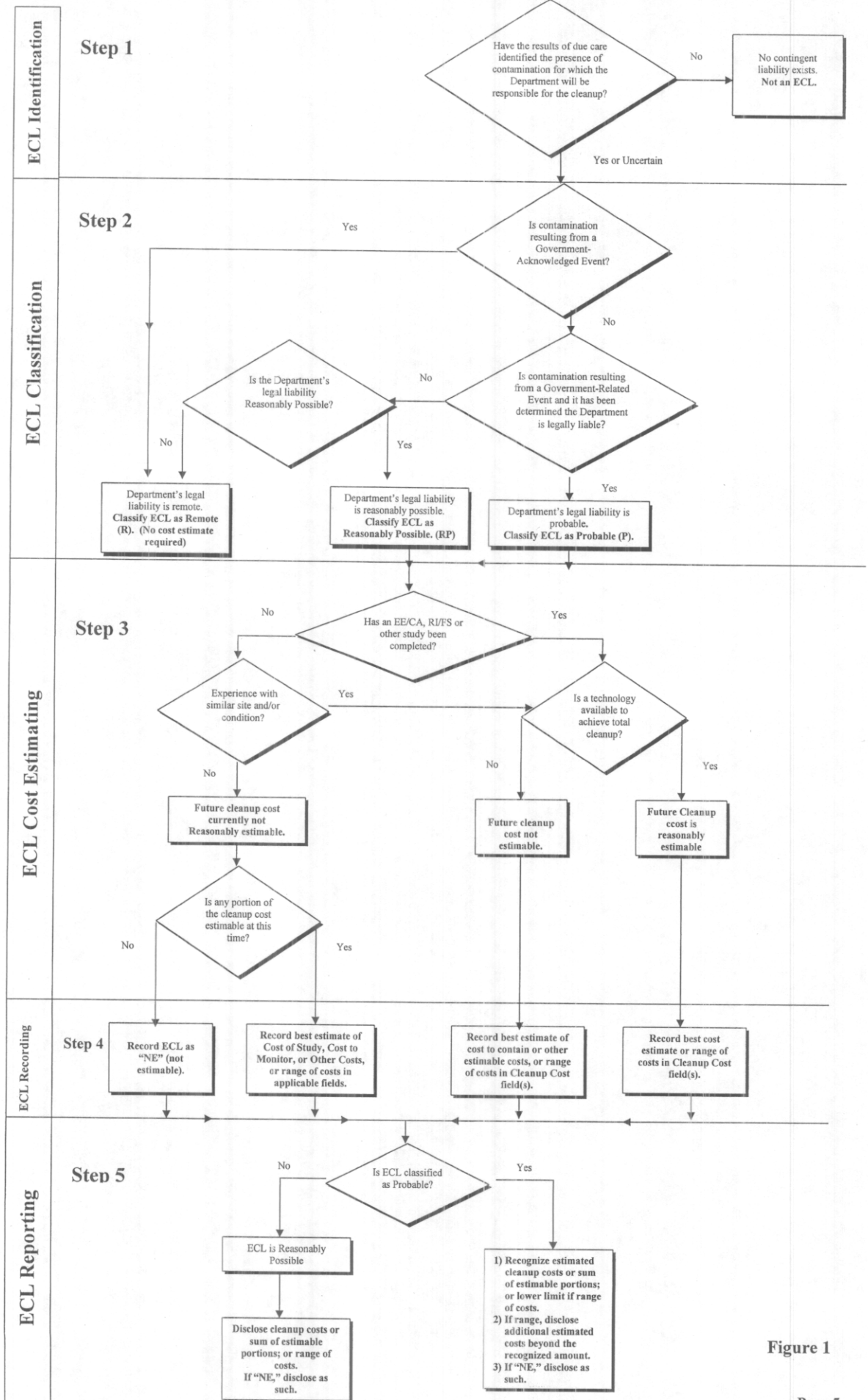


Figure 1

Due care refers to a bureau's reasonable effort to identify the presence or likely presence of contamination. Due care is considered to be exercised if a bureau has effective policies and procedures in place to routinely attempt to identify contamination and forward that information to the responsible bureau official. Procedures that are evidence of the exercise of due care may include, but are not limited to, the following:

- review of recorded chain-of-title documents (including restrictions, covenants and any possible liens) and good faith inquiry and investigation into prior uses of the property; investigation of aerial photographs that are available through government agencies that may reflect prior uses;
- analyses to estimate the existence of uninvestigated sites based on information from known sites;
- inquiry into records that are available from federal, state, and/or local jurisdictions that show whether there has been a release or potential release of hazardous substances on the property (and adjacent property, if suspected contaminants exist);
- visual site inspection of any portions of the property where environmental contamination is likely or suspected, and
- investigation of complaints regarding abnormal health conditions.

Each bureau's Hazardous Materials Contacts or other designated personnel are required to identify and report new sites with potential environmental liabilities.

Many Department facilities have regulated materials (e.g., asbestos) used in the construction or past renovation of the facility. These materials, while in an undisturbed or encapsulated state (e.g. non-friable asbestos), are not subject to cleanup under applicable law. The generally-recognized Best Management Practice for such materials is to monitor them, but leave them undisturbed. Only if they become friable or otherwise released to the environment would they be considered contaminants requiring cleanup or abatement. Under normal circumstances, cleanup or abatement should be limited to situations such as the remodeling or demolition of a building containing these materials where the materials could be released and cause contamination of the environment.

It is the Department's policy that in the case of materials used in the construction or later renovation of a facility, an ECL does not exist until the materials become friable or otherwise capable of causing contamination. Therefore, until that happens, costs for monitoring or other management of these materials in an undisturbed or encapsulated state would not be an ECL. When a facility is planned for deconstruction or renovation, the costs associated with the abatement portion of the activity would be identified as an ECL. The costs associated with the abatement of the materials would be recognized or disclosed based on the upcoming schedule of the activity.

3.0 ECL CLASSIFICATION

The likelihood of incurring future costs associated with environmental cleanup for which the bureau is legally liable can be classified as "probable," "reasonably possible," or "remote" (Figure 1, Step 2). Department environmental managers and accountants should consult with the

bureau's legal counsel to reach conclusions on the likelihood of a legal liability. The likelihood categories are defined as follows.

- Probable (P) - The likelihood of the bureau incurring future costs for environmental cleanup for which it is legally liable is likely.
- Reasonably Possible (RP) - Because contingent liabilities involve uncertainty, some events may be identified as ECLs, but the likelihood of the bureau incurring future costs for environmental cleanup for which it would be legally liable is less than probable. If the likelihood is less than probable, but greater than remote, the ECL is classified as "reasonably possible."
- Remote (R) - If the chance of the bureau incurring future costs for environmental cleanup for which it would be legally liable is slight, the ECL is classified as "remote."

3.1 Probable Likelihood

The key factors (tests) that determine an ECL as "probable" are:

1. Contamination is known to be present, and
2. Government-related event and legally liable

3.1.1 Contamination Present

If the results of due diligence or any subsequent investigation indicate the presence of contamination, then the first probability criterion has been met. If the presence of contamination is uncertain, then probability criterion is not met.

3.1.2 Government-related Event and Legally Liable

Once the presence of contamination has been confirmed, the bureau needs to determine if it either 1) caused or contributed to the contamination, 2) is legally liable as a result of a court decision or valid administrative order to clean up the contamination, or 3) has formally agreed to assume all or part of the cleanup costs under a legally binding settlement agreement or decent decree. If it has been established that the Department bureau is legally liable, then the probability criterion is met. Legal liability should be determined in consultation with the bureau's legal counsel.

If a legal determination of the bureau's allocable share has not been made, the probable criterion has not been met.

3.2 Reasonably Possible Likelihood

If a legal determination has not been made regarding the Department's liability for cleaning up the contamination, the ECL will be classified based on the likelihood of the Department/bureau's legal liability. If the likelihood is less than probable, but greater than remote, the ECL is classified as "reasonably possible."

3.3 Remote Likelihood

If a legal determination has not been made regarding the Department's liability for cleaning up the contamination, the ECL will be classified based on the likelihood of the Department/bureau's legal liability. If the likelihood is only slight (less than reasonably possible), the ECL is classified as "remote."

Additionally, if an ECL is associated with a government-acknowledged event, then the ECL is classified as "remote."

4.0 ECL COST ESTIMATING

If an ECL is classified as probable or reasonably possible, every effort should be made to develop a total cleanup cost estimate if it is reasonable to do so. The ECL amount will be recognized or disclosed on financial statements based on the likelihood classification (Section 5.0). If the ECL amount is not reasonably estimable, a footnote should state that a cost estimate cannot be made at this time. The Department does not require cost estimates to be developed for ECLs that are classified as remote.

4.1 Reasonably Estimable

Various key factors (tests) should be considered in determining whether future outflows of resources can be reasonably estimated. The factors are:

1. Completion of an Engineering Evaluation/Cost Analysis (EE/CA), Remedial Investigation/Feasibility Study (RI/FS), or Other Study,
2. Experience with a Similar Site and/or Conditions, and
3. Availability of the Remediation Technology.

Step 3 of Figure 1 illustrates the application of these tests. Cost estimates should be based on current technology. The following discusses the three key factors:

1. **Completion of EE/CA, RI/FS or Other Study:** The first test in determining whether future costs are reasonably estimable is to ascertain whether there is a completed study upon which to base an estimate. For example, if an EE/CA, RI/FS, or other investigation study has been completed for a particular site, these studies would form the basis upon which to begin estimating the cleanup costs.

The fact that a site does not have a comprehensive study completed does not exempt the bureau from making a best effort to estimate the cleanup costs for financial statements purposes, or for reporting a cost estimate for that portion of its obligation that can be estimated (see No. 2 below).

If the results of the study indicate that no contamination exists for which the Department is responsible, then an ECL does not exist and the decision process is complete.

- 2. Experience With Similar Site and/or Conditions:** If no study has been completed, the next test is to determine whether a site appears to be similar to any other site or condition where experience has been gained through either a completed study or actual remediation. Similar sites or conditions used for developing a cost estimate can be associated with other federal agencies or private sector corporations.

If there is a similar site or condition with experience gained (through actual cleanup and/or a completed study to compare), the ECL cost estimate for a site could be based on the similar experience or conditions. In addition, the estimated cost of a future study (if required) should be reported. Future studies could result in improved estimates.

If there is no comparable site and/or condition, remediation costs for a site would not be considered reasonably estimable at that time, but the bureau would report the anticipated cost of conducting a future study, if required, plus any other identifiable costs (such as interim monitoring to determine if further study or remediation is necessary).

- 3. Availability of Remediation Technology:** If a study has been completed, or a bureau or other agency has experience with a similar site and/or condition as noted above, the next test is whether there is a technology available to achieve total cleanup. If no remediation technology exists to achieve total cleanup, then total remediation costs would not be reasonably estimable. However, the bureau would be required to report the costs to contain the contamination and any other relevant costs, such as costs of future studies, treatment, or monitoring that will be implemented to minimize and control the contamination. For example, the total remediation of certain volatiles in groundwater is often difficult to achieve. However, partial remedial actions are implemented such as removal of the primary source of contamination, groundwater extraction and treatment, and long-term groundwater monitoring to ensure natural attenuation is occurring. The costs of these actions are estimable and would be recorded. The bureau would calculate an amount to be recorded based on the type and length of containment required. If a record of decision (ROD) has not been approved, and therefore, a length of time has not been determined, a reasonable length of time based on similar conditions should be assumed in the cost estimate.

If a remedial technology is available, then remediation costs are reasonably estimable, and the bureau would record the best estimate at current cost. If no amount within a range of estimates is a better estimate than any other amount, the bureau should record a range of amounts. If the estimate is based on similar site criteria, the agency would also include the anticipated cost of an EE/CA, RI/FS or other study, if required.

If management has not determined what remedial action should be taken for a contaminated active site, the cost of containment at the end of the facility's useful life, plus the cost of a study, if not yet done, should be considered as the low end of the range of future estimated cleanup costs.

4.2 Quantification of the Estimate

ECL cost estimates should include any remedial activity or portion of an activity that has not yet been completed, such as:

- Studies, plans, designs, removal activities, remedial activities, and remedial operations (to include operating and maintenance [O&M] costs of remedial systems) necessary to comply with applicable legal and regulatory requirements, and the costs of contractors, engineers, and consultants. **Do not include O&M costs associated with a current operation.** Only the O&M costs associated with actions to close the operation in accordance with environmental regulatory permits should be included. For example, if a bureau was operating an active hazardous waste landfill, the O&M costs associated with the landfill's routine operations would not be considered an ECL. Even environmental sampling, analysis and reporting required under the Resource Conservation and Recovery Act (RCRA) permit during operation would not be an ECL. However, O&M costs associated with an environmental response action or the closure of an inactive site (e.g., a closed landfill), such as the O&M associated with a groundwater treatment system, would be an ECL.
- Machinery and equipment dedicated to a response action (removal or remedial) that do not have alternative uses, and their associated operating and maintenance costs.
- Compensation and benefits of government personnel that devote significant time to an environmental cleanup effort.
- Long-term monitoring (LTM) associated with a response action.

Cost estimates must be based on site-specific information, and can be calculated using engineering estimates or cost models. Cost estimates are subject to audit, and therefore, adequate documentation identifying data sources, estimating method, rationale used, and management review must be retained and readily accessible. If a cost model is used for estimating ECL costs, the model must be accredited for estimating environmental cleanup costs.

The Department's Central Hazardous Materials Fund (CHF) Program uses the Remedial Action Cost Engineering and Requirements (RACER) cost estimating system as a uniform method for estimating CERCLA-related cleanup cost estimates. RACER has been reviewed and approved Price Waterhouse Corporation, LLC, and is accredited to provide automated, consistent, repeatable, and documented estimates for environmental cleanup of contaminated sites. RACER provides a reasonable cost estimate for program funding purposes consistent with site information available at the time the estimate is prepared (Memorandum from P. Lynn Scarlett dated February 27, 2004). The Bureau of Reclamation (BOR) has been contracted by OEPC to prepare cost estimates for environmental cleanup at CHF projects using RACER. BOR has compiled costs for studies, remediation, and LTM at CFH sites.

If a bureau is one of several responsible parties, the bureau would record only the portion of the total cleanup cost for which it is or would be legally liable. For ECL sites classified as "probable," the bureau's portion has been established by judicial decree or other legally binding settlement agreement. For sites classified as "reasonably possible," the bureau should estimate their allocable share of the liability and document the uncertainty in the disclosure footnotes.

4.3 Changes in ECL Estimates

Changes of cleanup cost estimates are consequences of periodic presentations of financial statements. Future costs cannot be known with certainty; therefore, estimating requires the exercise of judgment. Thus accounting estimates change as new events occur, as more experience is acquired, or as additional information is obtained.

The receipt of new facts or clarifying information about an ECL may include:

- the type and extent of contaminants at the site
- the identification, number and financial position of other responsible parties
- the allocation of costs among responsible parties based on judgments, assessments, or consent decrees
- data regarding the remediation experiences at other sites
- results of an EE/CA, RI/FS, or other study
- approval of a ROD
- refinements of the remediation plan
- the type of technology available to remediate
- unanticipated problems identified during remediation
- the type and duration of post-closure monitoring required
- unanticipated problems encountered during the post-closure monitoring period
- new regulations regarding the appropriate method of disposing hazardous wastes
- new laws regarding the acceptable levels of contamination

Additionally, as cleanup activities progress, the ECL estimate would be reduced by the cost of the work completed. The ECL estimate would be reduced by the amount paid and the amount accrued. The amount accrued would be reflected in accounts payable in the quarter in which work was completed. In certain cases, the amount completed may be insignificant compared to the total cleanup cost estimate. In these cases, the bureau's financial personnel may decide not to reduce the ECL cost estimate.

5.0 ECL RECORDING AND REPORTING

Each bureau's Hazardous Materials Contacts or other designated personnel must provide the bureau's financial personnel, the PFM and the OEPC with information on their estimated ECLs to be used in preparing quarterly and annual financial statements no later than one week before the end of each fiscal quarter.

5.1 ECL Recording

A revised standard data file structure (in Microsoft Excel format) (Appendix A) was developed and distributed in July 2003 to the Department bureaus for recording ECLs (Memorandum from P. Lynn Scarlett dated July 25, 2003). The term "record" as used here refers to the information provided in the Excel spreadsheets. The ECL data file structure was designed based on guidance provided in SFFAS No. 5 and Technical Release No. 2. To facilitate the ECL reporting process, a uniform database of ECL sites was developed in Microsoft Access. This ECL

database is a temporary database to facilitate the current ECL reporting process until such time that the temporary database can be migrated to a secure location on a Department intranet with internet access and limited write privileges.

The ECL Excel spreadsheets developed by each bureau (starting with the third quarter fiscal year (FY) 2003) were compiled into the Microsoft Access ECL database. The ECL database includes input forms, standardized reports, and a user manual.

5.2 ECL Reporting

As used in this guidance, the term “reporting” means to recognize an amount on the face of financial statements or to disclose an amount, a range of amounts, or a comment regarding the uncertainty of the ECL cost estimate in footnotes in the financial statements. ECL cost estimate reporting is illustrated in Figure 1, Step 5.

5.2.1 Recognized ECL Amounts

The Department and its bureaus are required to recognize an ECL when the future outflow or other sacrifice of resources as a result of past transactions or events is “probable” and “reasonably estimable.” If both these conditions exist, the ECL cost estimate, or the portion of the total cleanup cost that is estimable at this time, will be recognized on the face of financial statements.

If the cost estimate is a single amount, this amount will be recognized. However, if the ECL cost estimate is a range of amounts, the minimum amount (lower limit [LL]) would be recognized. Although it is understood that the minimum amount of the range is not necessarily the amount that will ultimately be expended, it is not likely that the ultimate amount will be less than the minimum amount.

The ECL database has been design to calculate the cleanup cost amount to be recognized in financial statements. The recognized amount is calculated for each site, each bureau, and for all bureaus (the Department). For estimable sites classified as “probable (P),” the sum of Cost to Study, Cost to Monitor, Other Costs, and Cleanup Cost LL (Column g-3a on the Excel spreadsheet), equal to the Total Cost LL, would be recognized.

5.2.2 Disclosed ECL Amounts

When the future outflow or other sacrifice of resources as a result of past transactions or events is not both “probable” and “reasonably estimable,” then the criteria for recognizing the ECL amount have not been met. There are three conditions under which the ECL cost estimate are disclosed in footnotes in financial statements. The three conditions are described below, and illustrated in Figure 1, Step 5.

1. The ECL was classified as “probable,” but a range of ECL cost amounts was recorded for the total environmental cleanup or for the sum of the estimable portions of the total environmental cleanup. Under this condition, the lower limit of the range was recognized

in financial statements. Therefore, the range of ECL cost amounts beyond that which was recognized would be disclosed. For example, if the cost range was \$100,000 to \$1,000,000, \$100,000 would be recognized and a range of \$0 to \$900,000 would be disclosed.

2. If the ECL is classified as “probable” or “reasonably possible,” but the total cleanup cost estimate or any portion of the total cleanup cost estimate can not be reasonably estimated, a comment that the ECL costs are not estimable at this time would be included in the disclosure footnotes associated with financial statements. An explanation should be included.
3. The ECL is classified as “reasonably possible” (not probable). Under this condition the ECL cost amount, or the range of amounts, would be disclosed in the footnotes associated with financial statements.

The ECL database has been design to calculate the cleanup cost amount to be disclosed in financial statements. The amount disclosed is a range of costs that represent potential costs above the amount recognized. The disclosed amount range is calculated for each site, each bureau, and for all bureaus (the Department). For sites classified as “reasonably probable (RP),” the sum of Cost to Study, Cost to Monitor, Other Costs, Cleanup Cost LL (column g-3a on the Excel spreadsheet) would be disclosed as the lower limit of the disclosed range. The upper limit of the disclosed range is calculated by first determining the upper limit of the total cleanup cost range (Total Cost Upper Limit if Range [UL] [column g-3b on the Excel spreadsheet) from the cost estimates recorded. The Total Cost UL is calculated as the sum of Cost to Study, Cost to Monitor, Other Costs, and Cleanup Cost UL (column g-3b). If only a single cost estimate was recorded (i.e., only the LL field was used [g-3a]), the lower limit [LL] amount is used as the upper limit [UL] amount in the Total Cost UL calculation. The upper limit of the disclosed amount is then calculated as Total Cost UL – Total Cost LL + Amount Disclosed LL (i-2 on the Excel spreadsheet) for all estimable sites classified as “probable (P)” and “reasonably possible (RP).”

5.2.3 Amounts Not Reported

If an ECL is classified as “remote,” no reporting (i.e., recognizing or disclosing) is necessary in financial statements.

Appendix A
OEPC ECL Guidance



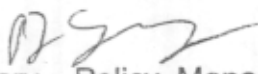
United States Department of the Interior

OFFICE OF THE ASSISTANT SECRETARY
POLICY, MANAGEMENT AND BUDGET
Washington, D.C. 20240

FEB 27 2004

Memorandum

To: Bureau Directors
Bureau Chief Financial Officers
Bureau Hazardous Materials Contacts
Departmental Offices

From: P. Lynn Scarlett 
Assistant Secretary – Policy, Management and Budget

Subject: Updating Schedule of Sites with Potential Environmental Liability

The Department's financial reports must include environmental cleanup liabilities (ECL) information. We prepare our Annual Report on Performance and Accountability, including financial statements and supplemental schedules, pursuant to the Chief Financial Officers Act of 1990, the Government Management Reform Act of 1994, and other legal and regulatory requirements. In addition to the annual report, the Department is now required to prepare quarterly financial reports for submission to OMB. We anticipate that quarterly reporting will enable the Department to more readily meet the upcoming new deadline of November 15 for completing the Performance and Accountability Report. In order for finance offices to prepare timely, fairly stated quarterly and fiscal year-end financial reports, they require sound, well-supported estimates of ECL for each site with potential environmental liabilities, developed and reported on time.

Federal accounting standards address how to recognize and measure liabilities, including those related to environmental cleanup, for inclusion in Federal financial reports.

In order to comply with these requirements, each bureau's Hazardous Materials Contacts or other designated personnel must: (1) identify and report new sites with potential environmental liabilities, (2) develop environmental response or study cost estimates for newly-reported sites, and (3) update environmental response or study cost estimates for previously-estimated sites. Use of a standard data file structure is mandatory for recording information about environmental contamination sites. (See Attachments.)

No later than one week before the end of each fiscal quarter (e.g., by March 24, 2004, June 23, 2004, etc), Hazardous Materials Contacts or other designated personnel must provide bureau finance personnel, the Office of Financial Management (PFM), and the Office of Environmental Policy and Compliance (PEP) with information on their estimated environmental liabilities to be used in preparing the FY 2004 quarterly and annual financial statements. By September 23, 2004, a fiscal year-end update of the information is required. If any material changes arise by September 30, 2004, a special update should be submitted by October 8, 2004. Attachment 1 addresses applicable accounting standards and ECL recognition and measurement, estimating environmental liabilities, the limited scope of reporting, and the data file structure. Please note that this information is primarily for financial reporting purposes rather than as support for future funding requirements.

Please submit information electronically and in hard copy to PEP, Attention: Robert Wilson and to PFM, Attention: Eric Eisenstein no later than one week before the end of each quarter.

This information is sensitive and for internal Departmental use only, and the list is considered a deliberative document. It should not be released outside the bureau, PEP and PFM, without coordination with PEP, PFM, and the Office of the Solicitor (SOL). Please DO NOT PHOTOCOPY the list unless the copies are controlled, accounted for, and/or destroyed.

If you have any questions, please call Eric Eisenstein on (202) 208-4701 or Robert Wilson on (202) 208-7556. Thank you for your participation in this important effort.

Attachments (2)

cc: Deputy Chief Financial Officers
Bureau Finance Officers
Financial Statement Guidance Team
Regional Environmental Officers

Attachment 1 Reporting Potential ECL

Accounting Standards and ECL Recognition and Measurement

Federal accounting standards address how to recognize and measure environmental cleanup liabilities, which are included in Federal financial reports. Statement of Federal Financial Accounting Standard (SFFAS) Number 5, *Accounting for Liabilities of the Federal Government*, requires that agencies report information on estimated environmental liabilities in their annual financial reports. Agencies must recognize a liability when a future outflow or other sacrifice of resources as a result of past transactions or events is "probable" and "reasonably estimable." Federal Financial Accounting and Auditing Technical Release (TR) Number 2, *Determining Probable and Reasonably Estimable for Environmental Liabilities in the Federal Government*, provides guidance in determining probable and reasonably estimable liabilities related to environmental cleanup responsibilities. While the financial statements must include accrued (i.e., "booked") environmental cleanup liabilities, footnotes to financial statements must disclose contingent liabilities for potential environmental cleanup costs that are considered reasonably estimable but which do not meet the requirement for accrual.

The ECL amounts accrued and disclosed in the financial reports are developed from lists of sites with environmental contamination and the estimated potential environmental liabilities for each. This information should address all of the bureau's environmental contamination sites, including sites with hazardous materials contamination, and estimates or remediation costs from: (a) remedial investigations/feasibility studies or other studies and evaluations; (b) records of decision or other agreements; (c) legal judgments, assessments, or consent decrees; or (d) any other actions taken that provide estimates. Estimates can be developed from experience gained through cleanup or study of similar sites or conditions.

It is necessary for bureau personnel to consult and to coordinate with legal counsel in the Office of the Solicitor (SOL) on certain ECL issues. These issues include large ECL matters, matters where there are questions about bureau or PRP legal liability at a facility or site, and for those that were assigned the legal status "I" (in litigation) in the database structure used in FY 2002. Also, attorney input is appropriate in any unusual circumstances and where there is potential for litigation, particularly where contamination may pose a potential impact on human health and the environment. Ample lead time may be necessary for consulting with the attorneys.

Estimating Environmental Liabilities

Sites or projects which require support from the Department's Central Hazardous Materials Fund (CHF) will require nominating bureaus to prepare a plan for addressing known areas of contamination and a plan for investigating the presence and viability of

Potentially Responsible Parties (PRPs). Specific guidance can be found in Environmental Compliance Memo 99-2, *Supporting Information for Central Hazardous Materials Fund Project Nominations*. The CHF is available only for CERCLA-related response actions.

The Bureau of Reclamation (Reclamation) has been awarded a contract to prepare cost estimates for CHF projects. Reclamation has compiled a database of costs for studies, remediation, and long term monitoring at CHF projects. It is also preparing a draft Departmental ECL database that will be introduced in FY 2004.

CHF project cost estimates are based on the Remedial Action Cost Engineering Requirements (RACER) System. RACER has been reviewed by PricewaterhouseCoopers, LLP in accordance with DoD Instruction 5000.61, DoD Modeling and Simulation Verification, Validation and Accreditation, and is fully accredited "to provide an automated, consistent, and repeatable method to estimate and document the program cost for the environmental cleanup of contaminated sites and to provide a reasonable cost estimate for program funding purposes consistent with information available at the time of the estimate preparation."

Scope of Environmental Cleanup Reporting Limited

There are many Federal and state statutes that provide context in which the Department's properties may be subject to an environmental liability, but there are certain environmental risks which are not within the scope of ECL reporting. Regulated materials (e.g., asbestos) used in construction or renovation of facilities are not within the scope of ECL reporting if they are in an undisturbed or encapsulated state. The practice for such materials is to monitor them but leave them undisturbed. Only if they become "friable" or otherwise released into the environment would they be considered contaminants requiring cleanup or abatement. Environmental liabilities for ECL reporting purposes must be related to a past transaction or event; in the case of materials used in the construction or renovation of a facility, there is no past transaction or event leading to a future outflow of resources unless and until the materials become capable of causing contamination. Therefore, the costs for monitoring or other management of these materials in an undisturbed or encapsulated state should not be reported as ECL. Activities funded under O&M (operations and maintenance) do not represent a future outlay of resources and as such are neither recognized nor disclosed as ECL.

Data File Structure

The use of a standard data file structure is again required for recording information about the bureau's environmental contamination sites. The file structure includes the following information for each site:

Date [of Information] (in heading)

Bureau (or office) (Column a)

Facility/Site/Unit Name (Column b)

City (Column c) and State (Column d)

Law/Regulation (Column e)

[C=CERCLA, R=RCRA, U=UST, W=CWA, A=CAA, T=TSCA, O=other; if "O" or "None" is listed, explain in the (j) Note column.]

Likelihood of Incurring Future Costs for Environmental Cleanup (Column f)
[P--Probable, RP--Reasonably Possible, or R--Remote]

Future Costs [if known or reasonably estimable]

Cost of Study (Column g-1)

[Entered if cleanup cost is not known or reasonably estimable]

Cost to Monitor [NE if not estimable currently] (Column g-2)

Clean-up Cost (Columns g-3a, g-3b)

[Enter amount in first column, but if the estimate is a range, use both columns. Enter NE if not estimable currently.]

Other Costs (Column g-4)

[Provide explanation in the (j) Note column.]

Total (Columns g-5a, g-5b)

Shared Liability (Column h-1)

[Yes, if established by a judicial decree or other legally binding settlement agreement, or No, under any other circumstances. Bureaus are advised to consult with the Office of the Solicitor to determine any shared liability.]

Bureau's Allocation of Liability (Column h-2)

[If established by judicial decree or other legally binding settlement, percentage share for Bureau; otherwise No or Unknown. Bureaus are advised to consult with the Office of the Solicitor to determine any allocation of liability.]

Amount Recognized or Disclosed in Financial Statements

Amount Recognized (Column i-1) [If estimate is a range, enter lower limit in Column i-1 and upper limit in Column i-3.]

Amount Disclosed (Column i-2) [If estimate is a range, enter lower limit in Column i-2 and upper limit in Column i-3.]

Upper Limit (Column i-3)

Note Reference (Column j)

[for explanatory notes, where necessary, which can be presented on a separate page]

Column e refers to the statutory or regulatory driver for the action at each facility/site. An entry must be made in this field (e) for each facility, site, or unit. "CERCLA" is the Comprehensive Environmental Response, Compensation and Liability Act; "RCRA" is the Resource Conservation and Recovery Act; "UST" is underground storage tank regulation under RCRA; "CWA" is the Clean Water Act; "CAA" is the Clean Air Act; "TSCA" is the Toxic Substances Control Act; and "Other" applies to any other federal environmental laws which may be the driver for federal action at the site. If "Other" or "None" is selected, provide an explanation tied to Column j—"Note Reference".

Column f indicates, for each facility and site, the likelihood of an unfavorable outcome—i.e., the probability that the bureau must incur a future outflow of resources for environmental cleanup. Enter "P" — probable: more likely than not — in Column f for cases in which it has been established that the Department is liable for cleanup costs, i.e., Government-related events where the Department/bureau is liable for cleanup costs, including events where the Department: (1) caused or contributed to a known or confirmed release of contamination; (2) is legally liable as a result of a court decision or valid administrative order; or (3) has formally agreed to assume all or part of the costs of a cleanup under a legally binding settlement agreement or consent decree. Government acknowledged events are not reportable liabilities in the financial statements until (and to the extent that) Congress has appropriated or authorized resources and an exchange of services has occurred, as when a contractor begins cleanup. Generally, facilities and sites that were formerly (in the database structure used in FY 2002) assigned the legal status "L" (liable) or "S" (shared liability) would now be rated "P."

Enter "RP" — reasonably possible — for facilities and sites where the probability that the bureau must incur a future outflow of resources for environmental cleanup is more than remote but less than probable. Generally, most facilities and sites that were assigned the legal status "T" (to be determined) in the database structure used in FY 2002 would now be rated "RP."

Enter "R" — remote — in Column f where the Department is clearly not liable, including Government-acknowledged events that result from a non-federal source where the Department is not liable but chooses to accept financial responsibility for cleanup due to the Government's broad responsibility to provide for the public's general welfare (where there is no specific appropriation and exchange of services). Generally, facilities and sites that were assigned the legal status "N" (not liable) in the database structure used in FY 2002 would now be rated "R."

Column g indicates estimates of costs or cost ranges for cleanup (e.g., site preparation, remediation, disposal of contaminants, etc.); for sites without known or reasonably estimable cleanup costs, there should be estimates of the cost of study. For financial accounting purposes, estimates associated with "P" sites are accrued or "booked" as

ECL, estimates associated with "RP" sites are disclosed in a footnote to the financial statements, and estimates pertaining to "R" sites are neither accrued nor disclosed. For "P" sites with cost ranges provided, the lower end of the range is accrued or "booked" as ECL, and the additional potential cost (i.e., the difference between the high and low ends of the range) is disclosed. The fields for cost to monitor and other ECL costs (e.g., EPA fines, development of environmental compliance documents) have limited applicability. Estimates should exclude activities funded under O&M.

To determine current FY estimates of ECL, personnel should adjust previous FY estimates of ECL for expenditures, changes in scope or costs, and newly-scoped items. Costs of current activities funded as O&M are excluded from ECL.

Use Column J ("Note Reference") to explain changes from the prior report in, among other items, (1) likelihood of incurring future costs, (2) cost estimates, and (3) clarifications of regulatory or statutory status.

F.Y. 2003 Draft List of Sites With Potential Environmental Liability

Likelihood of Incurring													Bureau's Allocation of Liability					
Bureau (a)	Facility/Site/Unit Name (b)	City (or Zip Code) (c)	State (d)	Law/Regulation (e)	Possible (RP), or Remote (R) (f)	Future Costs for Environmental Cleanup (Probable (P), Reasonably ----- TOTAL COST ----- Possible (RP), or Remote (R))					Total Cost (g-5a)	Upper Limit If Range (g-5b)	Known PRPs (h-1)	Bureau's Allocation of Liability (If known, percentage share for Bureau; otherwise No or Unknown)			Note (j)	
						Cost of Study (g-1)	Cost to Monitor (g-2)	Cleanup Cost (g-3a)	Cleanup Cost Upper Limit If Range (g-3b)	Other Costs (g-4)				Unknown]	Amount Recognized (i-1)	Amount Disclosed (i-2)		Upper Limit (i-3)
						\$0			\$0	\$0								
						\$0			\$0	\$0								
						\$0			\$0	\$0								
						\$0			\$0	\$0								
	Bureau Totals					\$0	\$0	\$0	\$0	\$0				\$0	\$0	\$0		