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Public Participation Guidance for On-Scene Coordinators: Community Relations and the Administrative Record

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SUPERFUND REMOVAL PROCEDURES

PUBLIC PARTICIPATION GUIDANCE FOR ON-SCENE COORDINATORS: COMMUNITY RELATIONS AND THE ADMINISTRATIVE RECORD

Office of Emergency and Remedial Response
U.S. Environmental Protection Agency
Washington, DC 20460

NOTICE

The policy and procedures set out in this document are intended solely for the guidance of Government personnel. They are not intended, nor can they be relied upon to create any rights enforceable by any party in litigation with the United States. EPA officials may decide to follow the guidance provided in this document, or to act at variance with the guidance, based on an analysis of site circumstances. The Agency also reserves the right to change this guidance at any time without public notice.

This document is part of a ten-volume series of guidance documents collectively titled the Superfund Removal Procedures. These stand-alone volumes update and replace OSWER Directive 9360.0-3B, the single-volume Superfund Removal Procedures manual, issued in February 1988.

Each volume in the series is dedicated to a particular aspect of the removal process and includes a volume-specific Table of Contents, Reference List, and Key Words Index. The series comprises the following nine procedural volumes:

The Removal Response Decision: Site Discovery to Response Decision

Action Memorandum Guidance

Response Management: Removal Action Start-up to Close-out

Removal Enforcement Guidance for On-Scene Coordinators

Public Participation Guidance for On-Scene Coordinators: Community Relations and the Administrative Record

Removal Response Reporting

Special Circumstances

Guidance on the Consideration of ARARs During Removal Actions

State Participation.

In addition, the series includes an Overview volume, containing a comprehensive Table of Contents, List of Exhibits, Key Words Index, List of Acronyms, and Glossary, for use as a quick reference.

This document summarizes the relevant public participation guidance and statutory authorities for conducting community relations and administrative record activities. Appendix A contains the Community Relations Plan Outline. "Appendix B. References" provides a comprehensive list of supporting guidance documents that may be consulted for additional information on relevant topics. Bracketed numbers [#] appear throughout the text to indicate specific references in Appendix B. Consult the reference documents for a more detailed explanation of removal program procedures or policies affecting public participation procedures. In addition, Appendix B provides a full citation of each statute and regulation cited throughout the text. Appendix C contains the Key Words Index.

Opportunities for public participation in the Superfund program promote two-way communication between members of the public, including potentially responsible parties (PRPs) and the lead government agency responsible for response actions. Because removal actions generally proceed quickly, there is less time to plan or conduct public participation activities than during a remedial response. As with other removal activities, preparation and the ability to work under short notice are essential to ensure that affected communities be involved from the outset where appropriate.

Public participation procedures for removal actions are addressed by two components of the removal process: community relations and the development of the administrative record. Public participation procedures for removal actions have been designed to ensure an appropriate level of public involvement without causing unnecessary delay. Therefore, these procedures vary depending on site-specific circumstances. On-Scene Coordinators (OSCs) should coordinate their efforts with technical, enforcement, and community relations staff to ensure that the local public is provided with accurate and timely information, and that the community's concerns about planned actions are heard, considered, and responded to by the lead agency and documented in the administrative record.

Site-specific public participation efforts are an important component of successful removal actions.

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EXHIBITS

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PUBLIC PARTICIPATION DURING THE REMOVAL ACTION PROCESS

Overview

Section 113(k)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), provides for the involvement of communities affected by response decisions at Superfund sites. Public participation in the Superfund program, as a whole, consists of all those public outreach activities conducted throughout the planning and implementation of Superfund removal and remedial responses. The overall objectives of public participation in the Superfund program are to:

- Inform the public of th: degree and type of risks associated with the site, planned or on-going actions, and other issues as appropriate
- Provide the public with an opportunity to comment on decisions about the site
- Identify and respond to community concerns.

Since removal actions generally proceed quickly, there is less time to plan or conduct public participation activities than during a remedial response. Sections 300.415(m) and 300.820 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) specify two forms of public participation for all removal actions:

- Community relations activities - designed to integrate the specific information needs of the community into the design of the communications approach or community relations plan for the site [5].
- Administrative record activities - designed to serve as the basis for the response selection and as a vehicle for public participation in the removal action [1].

For clarity, this guidance document distinguishes between community relations and administrative record activities based upon the NCP classifications. The NCP, however, provides cross-references for many of the public participation activities specified within sections 300.415(m) and 300.820. The OSC therefore must ensure that both community relations and administrative record activities are implemented, as appropriate, at each site.

Because public participation requirements are site-specific and vary with the urgency of the removal action, there are no set formulas for success. Instead, public outreach efforts must be tailored to address the distinctive needs of each community as well as the technical removal action schedule. For instance, the timing and type of community relations activities required for a removal action depend on the duration of on-site activity, although the OSC

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is also responsible for assessing whether additional activities not required by the NCP may benefit the community. In contrast, administrative record requirements are, in part, based on the length of the planning period available prior to the initiation of on-site activities. This guidance discusses specific public participation requirements for removal actions, as specified by the NCP and CERCLA, and also provides suggestions for additional activities should time allow or circumstances indicate the need for an expanded or alternative approach.

Approach for On-Scene Coordinators

The urgent nature and the need for quick response typical of many removal actions demands that the approach to public participation be responsive to changing community needs. OSCs should:

- Be accessible to the community

- Ensure all communications are clear and accurate

- Develop a public participation strategy that considers the special needs and concerns of the community.

These activities help ensure that OSCs adopt an appropriate public participation approach as discussed further below. When possible, the OSC should work closely with the Region's Community Relations Coordinator (CRC) and Administrative Record Coordinator (ARC) to design an approach that will address the NCP requirements and specific site circumstances (see pp. 4-13).

Accessibility to the community is critical to establishing the OSC's role as the leader of on-site activity. The OSC must anticipate and respond to the fear, confusion, and frustration often experienced by community members during removal actions. The OSC should be available on a routine basis to answer individual questions and for specific events such as press interviews or public meetings. During removal actions, however, OSCs must balance the need for public accessibility with the limits of time and other resources. For example, during time-critical situations, the OSC may determine that it is a more timely and efficient use of staff or other resources to hold a public availability session, rather than develop and distribute public information materials, to ensure immediate accessibility and reduce the community's fears.

As the manager of on-site activity, the OSC is responsible for maintaining consistent, timely, and accurate communication with the community. OSCs must listen to the needs and concerns of the community and develop a strategy for formal and informal communication with the community. Because discussions of removal actions can sometimes be highly technical, the OSC must present information in clear and easy-to-understand terms. In all instances, OSCs must ensure that the communication strategy is understood by other public participation staff and that information provided to the public is consistent. To assist in communicating technical concepts, the OSC may elect to develop supplemental information materials, such as a fact sheet, to summarize site activity.

The public participation approach that the OSC adopts for the community should reflect the interests and information needs of the community. The OSC should match the extent and type of information to be communicated with requests and concerns expressed by the community. For example, if the removal action utilizes a new technology, the OSC may use charts or diagrams as part of the public participation approach to help the community understand basic technological concepts.

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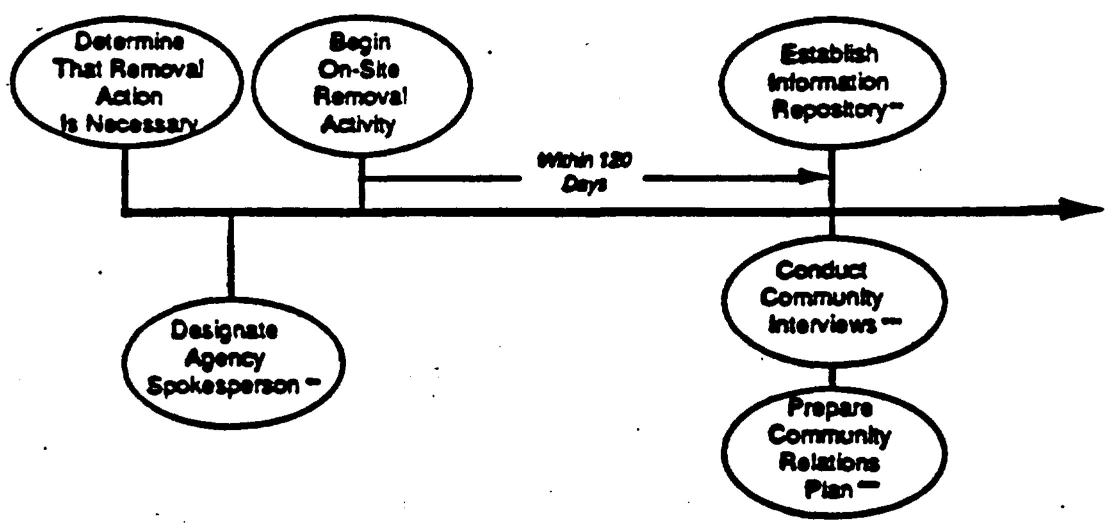
COMMUNITY RELATIONS REQUIREMENTS DURING REMOVAL ACTIONS

Overview

When a removal action has been determined necessary to mitigate a threat to public health and the environment, it is imperative to give the public prompt, accurate information on the nature of the release or threat of release and the removal action necessary to mitigate the release or threat of release. Community relations requirements during removal actions are intended to promote active communication between communities affected by a release or threat of a release [5].

As the Agency's lead technical representative and director of community relations at a site, the OSC is responsible for conducting or delegating responsibility for community relations activities. These activities are described in the NCP and vary according to the duration of on-site activity. The timing of community relations requirements for removal actions is illustrated in Exhibit 1.

EXHIBIT 1. COMMUNITY RELATIONS REQUIREMENTS FOR REMOVAL ACTIONS*



* Order of events for illustrative purposes only. Some events may be concurrent.
** Community Relations activity required at all removal actions.
*** Community Relations activity required at removal sites with >120 days of on-site activity.

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Specifically, certain community relations activities are required if on-site activities are expected to extend beyond 120 days from the initiation of on-site activity.[1] Also, certain public participation activities are required for all removal actions, regardless of the duration of on-site activity.

It is important to note that *a removal action will have community relations and administrative record requirements*. In addition, the NCP provides cross-references for certain community relations requirements, such as establishing an information repository, within the administrative record requirements. Similarly, certain administrative record requirements have community relations components, such as designating a public comment period and subsequently developing the written response to significant comments (see pp. 14-22). To ensure that all required community relations and administrative record activities are conducted during a removal action, OSCs should consult the Public Participation Checklist provided in Exhibit 2.

Section 300.415(m) of the NCP requires the following community relations activities:

- Community Relations Activities Required at All Removal Actions
  - Designate Agency spokesperson
  - Establish information repository
- Community Relations Activities Required at Removal Sites with >120 Days of On-site Activity
  - Conduct community interviews
  - Prepare community relations plan

Required Community Relations Activities

Designate Agency Spokesperson (This activity is required at all removal actions)

The NCP requires the lead agency to designate a spokesperson for all removal actions. The spokesperson informs the community of actions taken, responds to inquiries, and provides information concerning the release. At a minimum, the spokesperson must notify immediately affected citizens, State and local officials, and, when appropriate, civil defense or emergency management agencies. If the OSC is not available for the media due to other responsibilities at the site (or is not comfortable in the role as spokesperson), the OSC may designate another Agency spokesperson, such as a member of the Region's public affairs staff or the CRC assigned to the site (see pp. 23-25). The OSC, however, is responsible for approving all Federal news releases or statements by participating agencies [3].

1 Required administrative record activities are defined according to the duration of the planning period; these activities are discussed further beginning on p. 14.

EXHIBIT 2. PUBLIC PARTICIPATION CHECKLIST

The following checklist has been developed to assist OSCs in conducting and coordinating public participation procedures with other EPA personnel and contractor support. Because the NCP cross-references certain public participation requirements within the community relations and administrative record sections, the OSC must ensure that all relevant administrative record and community relations requirements are completed.

COMMUNITY RELATIONS ACTIVITIES

Required at All Removal Actions:

- Designate an Agency spokesperson.
- Notify affected citizens, State and local officials, and civil defense/emergency management agencies.
- Review/coordinate any news releases or statements made by participating agencies.

Required at Removal Sites With >120 Days of On-Site Activity:

- Conduct community interviews for removal actions.
- Prepare community relations plan for removal actions.
- Select materials for inclusion in information repository.
- Establish information repository(s) for removal actions.
- Inform public of availability of the information repository.

Which Can Be Implemented at the OSC's Discretion:

- Contact Community Relations Coordinator to arrange for on-site support.
- Conduct a public meeting or public availability session.
- Prepare meeting summary.
- Develop additional public information materials, such as fact sheets.
- Establish on-scene information office.

EXHIBIT 2(2). PUBLIC PARTICIPATION CHECKLIST

ADMINISTRATIVE RECORD ACTIVITIES

Required at All Removal Action:

- Establish administrative record file.
- Select documents to be included in the administrative record file.
- Publish public notice of administrative record availability:
  - Issue notice within 60 days of initiation of on-site removal activity for time-critical actions, including emergencies.
  - Issue notice of availability of administrative record with a brief description of EE/CA for non-time critical actions.
- Make the administrative record file available.[1]
- Document compliance with community relations procedures in the administrative record file.
- Add documents to the administrative record file.[2]

Required at Sites With > Six Months of Planning:

- Provide public comment period for comments on the EE/CA and supporting documentation of not less than 30 days for all non-time-critical removal actions[3], and a public comment period of not less than 30 days for time-critical actions, as appropriate.[4]
- Prepare written response to significant comments and include in administrative record file for all non-time-critical removal actions and for any time-critical actions for which a public comment period was held.

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1 Where it is deemed necessary to initiate on-site removal activities within hours of determining that a removal is appropriate and on-site removal activities cease within 30 days of initiation, the NCP allows the administrative record to be made available for public inspection only at the central location.

2 Documents generated or received after the decision document is signed shall be added to the file only as provided in NCP Section 300.825.

3 Upon receipt of a timely request, the lead agency will extend the public comment period by a minimum of 15 days.

4 In general, a public comment period will be considered appropriate if cleanup activity has not been completed at the time the record file is made available to the public and if public comments might have an impact on future action at the site.

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Hints for Communicating with the Media [3]
• Coordinate with the Office of Public Affairs/Community Relations Coordinator • Identify the messages you want to communicate • Use short, memorable phrases • Always tell the truth • Speak in plain English • Listen to and answer the question • Turn negatives into positives • Stay "on the record" • Be prepared.

Conduct Community Interviews. (This activity is required at removal sites with >120 days of on-site activity)

Community interviews provide essential background information for the Community Relations Plan. The purpose of these interviews is to solicit information about community concerns, information needs, and how or when citizens would like to be involved in the Superfund removal process [5]. The OSC may delegate this activity to the CRC or another Agency representative. Interviews should be conducted with local officials, community residents, public interest groups, and other interested or affected parties, as appropriate. Depending on the circumstances, the OSC routinely may conduct the interviews when residents contact Agency representatives to voice their concerns and seek additional information about Agency activities. Other interviews may be scheduled formally and conducted by the OSC or a designated Agency representative to ensure that a broad range of community perspectives are considered in developing the community relations strategy. Contractor support, through the Technical Assistance Team (TAT), may be available to assist the OSC in organizing information obtained through interviews. The actual interviews, however, must be conducted by EPA personnel.

Prepare Community Relations Plan (This activity is required at removal sites with >120 days of on-site activity)

The Community Relations Plan (CRP) is a site-specific document designed to communicate the community relations techniques and approaches deemed appropriate and relevant to the site [5]. The OSC oversees the development of the CRP, ensuring that it:

- Accurately documents community concerns identified during interviews
- Clearly describes the site background and information regarding the history of EPA, State, or local agency involvement at the site, if appropriate
- Incorporates site-specific circumstances, such as the type of removal action, in determining appropriate community relations activities
- Provides a detailed description of the community relations strategies for addressing community concerns regarding the site.

The OSC may delegate the preparation of the CRP to the CRC or State or local agencies; however, the OSC is responsible for ensuring that the plan is implemented.

The CRP is a planning document for the lead agency. As such, the CRP should convey a working knowledge of the local community and its concerns, while providing a framework for addressing these community concerns during the removal action. The recommended format of the CRP consists of five sections and two appendices; however, the format and level of detail included in the CRP will vary according to the type of removal action. Appendix A provides a detailed outline for a typical CRP.

Establish Information Repository (This activity is required at all removal actions)

The information repository is a project file or collection of materials relating to a specific Superfund site and to the Superfund program in general [5]. The purpose of the repository is to allow open and convenient public access to documents explaining the actions taking place at a site. To establish the local information repository, the OSC must select a location that is at or near the location of the response action, such as a local library or municipal building. Depending on the level of interest at the site, the OSC may establish more than one information repository at the site.

Typically, the information repository contains documents that provide information on site location and activities, as well as Superfund program and policy guides. The information repository may include materials on the Superfund process, background information, fact sheets, press releases, maps, and other information to aid public understanding of a site response. Exhibit 3 provides a list of required and suggested materials for inclusion in the information repository. All items in the repository must be available for inspection and copying. The administrative record file (see p. 14), by contrast, is the body of documents that forms the basis of the agency's selection of a particular response at a site, i.e., documents relevant to a response selection on which the lead agency relies, as well as relevant comments

EXHIBIT 3. INFORMATION REPOSITORY CONTENTS [5]

Required Contents

Copy of the Administrative Record File*
Work Plan submitted by Responsible Party, if available

Suggested Contents

Copies of CERCLA, RCRA, and the NCP
Documentation of site sampling results
Brochures, fact sheets, and other information about the Superfund program and the specific site
Copies of site-specific press releases and newspaper clippings
Any other relevant material (e.g., published articles on the potential risks associated with specific chemicals found at the site)

* If more than one information repository has been established for a site, a copy of the administrative record file must be made available in at least one of the repositories.

and information that the lead agency considers but may reject in the ultimate response selection decision. The administrative record file must be made available for public inspection at one of the information repositories.[2]

After the local information repository is established, the OSC may obtain assistance in maintaining the repository from any member of the community relations or records management staff, the CRC, a State or local government agency representative, or a PRP in certain situations.

Additional Community Relations Activities

At the discretion of the OSC, the following community relations activities may be used to help implement the community relations plan. They are not required by the NCP or CERCLA, and their use will depend on Regional practice, level of community interest, and the urgency of the removal action.

2 Where it is deemed necessary to initiate on-site removal activities within hours of determining that a removal is appropriate and on-site removal activities cease within 30 days of initiation, NCP section 300.805(a)(5) allows the administrative record to be made available for public inspection only at the central location.

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Conduct Public Meetings

The purpose of a public meeting is to inform citizens of ongoing response activities and to receive citizen feedback on the proposed course of action [5, 8]. The meeting should not substitute for other activities that involve direct communication with the public, but instead should provide a presentation of technical site-specific information and an opportunity for a question-and-answer session. The OSC should assume the role of moderator at the meeting and present technical information about the site. Additionally, the CRC, public affairs staff, or State or local government representatives should present a summary of community relations activities to be used at the site. The OSC may enlist other Regional staff to present additional information about the site if appropriate.

Availability Sessions

A public availability session is an informal meeting in a public location where people can talk to Agency officials on a one-to-one basis. Typically, technical experts on different aspects of removal activities, such as hydrogeologists and engineers, are available to answer questions. One advantage of the public availability session is that it encourages direct, informal interaction between the community and Agency staff, enabling the Agency to respond immediately and directly to community concerns.

Develop Additional Public Information Materials

To assist the public in understanding the Superfund program or site-specific activities, the OSC may develop brief fact sheets or draw upon existing outreach materials. Public information materials usually take the form of fact sheets, public notices, or exhibits designed to help ensure that the public is informed of the status of the removal action and has an understanding of the Superfund removal program [2, 5, 8]. Public information materials are not always site-specific; they may be used to provide generic information about the Superfund program or EPA Regional activities relevant to the site. Generic materials are available through the Regional public affairs office or through the Office of Waste Programs Enforcement (OWPE) at EPA Headquarters.[3] They also may be used to convey site-specific information about the technology being used in the removal process, the role of PRPs in the process, or the opportunities for public involvement in the decision-making process at the site, if appropriate. These materials may be distributed at public meetings, mailed to residents of the site community, or made available through the information repository.

3 Agency requestors must submit a written request for Superfund publications to OWPE's Superfund/RCRA Documents Center via E-Mail or postal/interoffice mail. E-Mail requests should be sent to OERR/PUBS, Box 5248; and written requests mailed to: Superfund Documents, OS-240, 401 M Street, S.W., Washington, D.C. 20460. Requests should include the full name of the recipient, address, telephone number, and the title(s) or number(s) of the documents being requested.

Develop Community Relations Mailing List

The OSC may develop or update a mailing list for the site to facilitate distribution for fact sheets, bulletins, or other EPA-issued correspondence about site activities. The mailing list should contain the names, addresses, and where appropriate, affiliations of all community leaders and interested parties, including:

- Federal, State, and locally-elected officials
- Potentially responsible parties
- Members and leaders of environmental and citizens' groups
- Interested citizens
- EPA Regional officials
- State environmental and health officials
- Local health department, safety, and township officials
- Press contacts.

The initial mailing list may be developed from parties identified during other community outreach activities, conversations with local officials, and from sign-in sheets at public meetings or availability sessions. The mailing list should be updated as necessary.

Prepare Meeting Summaries

A meeting summary provides the community with a written record of the key points covered during community meetings. It may be prepared by the CRC, other community relations staff, or a contractor, such as the TAT. Photocopies of the agenda, a list of Agency representatives with addresses and telephone numbers, and any handout or public information materials distributed by EPA at the meeting should be attached to the meeting summary. A copy of the meeting summary should be provided in the information repository.

The meeting summary is not a transcript of the meeting, but a summary of main issues and concerns. A certified meeting transcript prepared by a stenographer is recommended for formal public meetings held during a public comment period. In addition, comments and responses received at a public meeting held during a formal comment period must be documented in the written response to significant comments (see p. 21).

Establish On-Scene Information Office

An on-scene information office may be established by the OSC to better enable the Agency to respond immediately to local questions and concerns and issue press releases [5]. The on-scene information office may be located in a trailer or small building near the site and staffed by a full-time or part-time person such as the CRC or other community relations resource person designated by the OSC. On-scene offices are useful especially during removal actions involving particularly complex technologies or processes, when there is a high level of risk to human health or to the environment, or when a significant amount of interaction between EPA and community members is expected. If the OSC determines that an on-scene information office is appropriate, an Agency staff person should remain on site until the removal action is completed. At the discretion of the OSC and depending on the circumstances at the site, the responsibilities of the on-site staff may include:

- Distributing information to local residents
- Maintaining the mailing list
- Tracking the status of access to the property
- Preparing a daily log of citizen inquiries
- Preparing press releases
- Responding to citizen inquiries.

If resources do not allow for the extended presence of an Agency representative on-site, the OSC may determine critical points where this support is necessary. Information requests also may be collected by a telephone answering machine to provide residents access to Agency staff. The OSC or another Agency representative should monitor the incoming messages on a regular basis and provide prompt follow-up to community requests for information.

ADMINISTRATIVE RECORD REQUIREMENTS DURING REMOVAL ACTIONS

Overview

Section 113(k) of CERCLA, as amended, requires the establishment of an administrative record. The administrative record file, a subset of the site file, has two primary purposes:[4]

- First, it is the basis for judicial review of any issues concerning the removal action. Because a proposed removal action must be supported by the administrative record, the OSC must ensure the adequacy of the administrative record in the event the decision is challenged, such as in a subsequent cost recovery case.

- Second, EPA, through access to the administrative record file, provides for public participation, whenever practical, in removal actions, with opportunity as appropriate for comment on the selected response.

The administrative record file is the body of documents used by the Agency during a removal action to select a response. It includes site-specific data and comments, guidance documents, technical references used in the selection of the response, and documents that reflect the views of the public, including PRPs, concerning this selection [1]. For removal actions, the Action Memorandum is the critical component of the administrative record file because it is the primary decision document for a removal action.

As with the community relations requirements, administrative record requirements vary according to the type of removal action. Specifically, the timing and extent of administrative record activities depends on whether or not a planning period of six months is available before the start of on-site activity. Section 300.820 of the NCP requires the following administrative record activities:

- Public Participation Activities Required at All Removal Actions
  - Establish the administrative record file
  - Publish a notice of administrative record availability

4 The administrative record file differs from the administrative record because it refers to the documents as they are being compiled. Until a response is selected, there is no complete administrative record for that decision. Thus, to avoid creating the impression that the record is complete at any time prior to the final selection decision, the set of documents is referred to as the administrative record file rather than the administrative record.

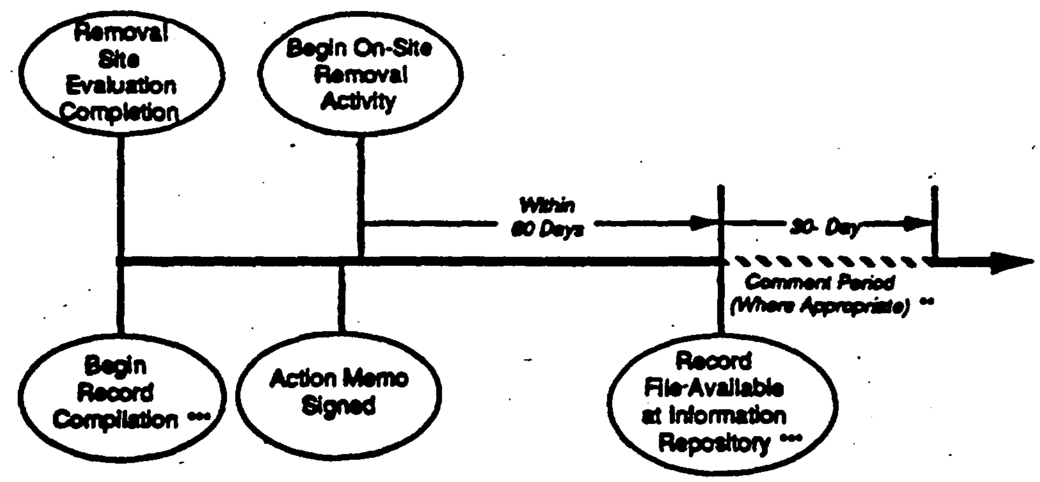
- Public Participation Activities Required at Sites with >Six Months of Planning
    - Hold a public comment period, where appropriate
    - Develop a written response to significant comments.

Section 300.825 of the NCP requires that the lead agency:

- Add documents to the administrative record file after selection of a response action only in certain situations.

Exhibits 4 and 5 illustrate administrative record requirements for removal actic is with planning periods of less than six months (i.e., time-critical actions, including emergencies) and more than six months (i.e., non-time-critical actions). In addition, the close relationship between administrative record requirements and community relations requirements is demonstrated by numerous cross-references throughout the NCP. For example, NCP section 300.415(m), which contains community relations requirements, cites most of the administrative record activities specified above. It is the responsibility of the OSC to ensure that all relevant administrative record and community relations requirements are completed. The OSC may determine that site circumstances merit additional public participation requirements beyond what is required; in such cases, the OSC may conduct those activities as appropriate, *in addition to* the required activities.

EXHIBIT 4. ADMINISTRATIVE RECORD REQUIREMENTS FOR TIME-CRITICAL REMOVAL ACTIONS* [1]



* Order of events for illustrative purposes only. Some events may be concurrent.

** In general, a public comment period will be considered appropriate if cleanup activity has not been completed at the time the record file is made available to the public and if public comments might have an impact on future action at the site.

*** Administrative Record activity required at all removal actions.

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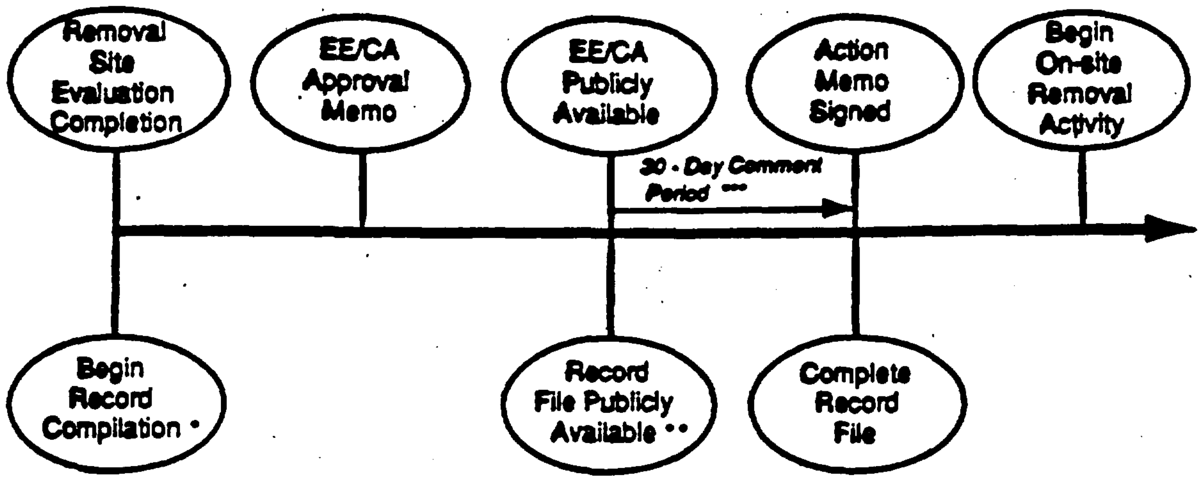
EXHIBIT 5. ADMINISTRATIVE RECORD REQUIREMENTS FOR NON-TIME-CRITICAL REMOVAL ACTIONS [1]



* Upon timely request, the lead agency will extend the public comment period by a minimum of 15 additional days. The NCP Preamble defines "timely" as generally within 2 weeks after the initiation of a public comment period.

** Administrative record activity required at all removal actions.

*** Administrative record activity required at sites with >six months of planning.

Administrative Record Activities

<u>Establish Administrative Record</u> (This activity is required at all removal actions)

The OSC, as the leader of on-site activity, is responsible for compiling and maintaining the administrative record in accordance with the NCP [1, 6]. The OSC should work closely with the Region's Administrative Record Coordinator (ARC) to help compile and index the administrative record file; develop and implement document room procedures to ensure orderly public access to the record; and monitor the condition of record documents to ensure the integrity of the record. Exhibit 6 lists the required contents of the administrative record file, as defined in the NCP. The length of time a record must be available at or near the site will be dependent on site-specific considerations such as on-going site activity, pending litigation, and the level of community interest. The administrative record file may be made available to the public in document-form or microform.

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EXHIBIT 6. ADMINISTRATIVE RECORD CONTENTS

The administrative record file for selection of a response action typically, but not in all cases, will contain the following types of documents:

- Documents containing factual information and analysis of the factual information that may form a basis for selection of a response action, such as:
  - Verified sampling data
  - Chain of custody forms
  - Site inspection reports
  - Preliminary assessment and site evaluation reports for EE/CA
  - ATSDR health assessment
  - Documents supporting the lead agency's determination of imminent and substantial endangerment/risk assessment
  - Technical, treatability, and engineering evaluations and studies
  - Requests for information and responses solicited under Section 104(e) and Section 122(e), when they contain information relied on by the decisionmaker, and responses to Section 104(e) information request letters and Section 122(e) subpoenas
  - Sampling plan.

- PRP notice letters.
- Factual information from the public/PRPs.
- Guidance documents, technical literature, and site- or issue-specific policy memoranda that may from a basis from the selection of the response action, such as:
  - Articles from technical journals
  - Memoranda on the application of a specific regulation to a site
  - Memoranda on off-site disposal capacity.

- Documents received, published, or made available to the public under section 300.820 of the NCP such as:
  - Community Relations Plan
  - Public comment and information received by the lead agency/State and Federal Agency comments
  - Written response to significant comments
  - Documentation of Public Meetings
  - Documentation of State involvement.

- Decision documents, such as Action Memoranda, and Closeout Documents.
- Enforcement orders, such as administrative orders, consent decrees and affidavits.
- Index of the documents included in the administrative record file. *

In general, only final documents are included in the administrative record file. Confidential documents will be placed in the record, but not at the site information repository.

* If documents are customarily grouped together, as with sampling data chain-of-custody documents, they may be listed as a group in the administrative record file.

NCP requirements for the timing of the availability of the administrative record file depend on the urgency of the situation. For all removal actions where there is a planning period of less than six months prior to the initiation of on-site activity, the administrative record file must be made available for public inspection no later than 60 days after the initiation of on-site removal activity. For removal actions where a planning period of six months or more exists before on-site removal activities must begin, the administrative record file must be made available for public inspection when the EE/CA is made available for public comment.[5]

NCP requirements concerning the location of the administrative record file also depend on the urgency of the removal action. For emergency removal actions lasting less than 30 days, the record file need only be placed at a central location, such as an EPA Regional office. For those sites where emergency removal activity is expected to extend beyond 30 days, and for all other time-critical and non-time critical removal actions, the OSC must make the administrative record file available at both a central location and at or near the site.

The Region may choose to have the ARC certify that the record was compiled and maintained in accordance with applicable Agency regulations and guidance. Such certification would not, however, address the completeness of the record file [1]. Only the Regional Administrator's designee, after consultation with the Office of Regional Counsel (ORC) and the OSC, may certify the administrative record for completeness. Certification of the record should be made by program staff and not legal staff.

Publish Public Notice (This activity is required at all removal actions)

A public notice is an advertisement, usually a display ad, published in major local newspapers in the site community to announce officially Agency decisions, major removal activity milestones, public meetings, or to solicit public comment on Agency actions [1,5]. The NCP requires the lead agency to publish a public notice to inform the public of the availability of the administrative record file.

The public notice announcing the availability of the administrative record file must appear when the record file is placed in the information repository. For removal actions where the planning period is less than six months, the NCP stipulates that the public notice must appear when the administrative record file is made available for public inspection, no later than 60 days after initiation of on-site removal activity. For removal actions with a planning period of six months or more, the public notice announcing the availability of the administrative record file must be published when the EE/CA Approval Memorandum is signed.

Public notices should include the following information:

- Site background
- A brief description of the major components of the EE/CA, if applicable

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5 NCP section 300.415(b) requires the preparation of an EE/CA or its equivalent (e.g., a Remedial Investigation/Feasibility Study) for all removal actions with a planning period of at least six months before the start of on-site activity. The EE/CA then must be made available to the public for comment.

- Location and hours of availability of the information repository
- Dates of public comment period, if applicable
- Time, date, and location of public meeting, if applicable
- Name of the Agency contact to whom written comments on the administrative record file should be addressed.

In addition, if the notice is announcing a public comment period for a non-time-critical removal action, it must state that upon timely receipt of a request (defined in the NCP Preamble as generally within two weeks after the initiation of a public comment period), the comment period will be extended a minimum of 15 additional days.[6] Exhibit 7 provides a sample public notice announcing the availability of the administrative record file.

The OSC should ensure that a public notice is placed in a newspaper with general circulation in the site community. Where there is more than one general circulation newspaper serving the community or if the site community is a broad geographic area, the public notice may be placed in more than one newspaper. Where time permits and the OSC determines that the level of interest in the site warrants additional notice of events, a press release noting information included in the public notice may be distributed for broadcast to local media or sent as individual mailings to interested parties on the mailing list.

Hold Public Comment Period (This activity is required at sites with >six months of planning)

A public comment period is a designated time period when written comments from citizens and oral comments received at a public meeting are accepted formally by the agency responsible for the removal action. The purpose of these public comment periods is to provide an opportunity for citizens to review and comment on the Agency's proposed course of action [1, 5]. For the administrative record, an additional purpose is to ensure that interested persons may submit comments on the selection of the removal action for inclusion in the administrative record file.

For time-critical removal actions, the NCP requires a public comment period, if appropriate, of not less than 30 days, when the administrative record file is made available for public inspection. For non-time critical removal actions, the NCP requires a 30-day public comment period on the EE/CA and any supporting documentation at the time the EE/CA is made available for public comment. While public comment periods are *always* required for non-time-critical removal actions, they will be considered appropriate in time-critical situations if cleanup activity has not been completed at the time the record file is made available to the public and if public comments might have an impact on future action at the site. In addition, the public comment period for non-time-critical removal actions must be extended for a minimum of 15 additional days upon timely receipt of a request.

6 Note that this is a new requirement per NCP section 300.415(m)(4)(iii), published March 8, 1990. The NCP also requires that documents supporting the request for an additional comment period be placed in the administrative record file.

EXHIBIT 7. SAMPLE PUBLIC NOTICE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202

NOTICE OF PUBLIC AVAILABILITY

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ANNOUNCES THE AVAILABILITY OF THE REMOVAL ADMINISTRATIVE RECORD FILE A & B PETROLEUM BELLFIELD, BELL PARISH, LOUISIANA

The U.S. Environmental Protection Agency (EPA) announces the availability for public review of documents comprising the A & B Petroleum administrative record file for the selection of the removal action. The documents are available at the Bell Parish Public Library. EPA encourages the public to comment on documents as they are placed in the record file.

The administrative record file includes documents which form the basis for the selection of a removal action at this site. Documents now in the record file include, but are not limited to, preliminary assessment and inspection reports, test results and the Action Memorandum. Other documents could be added to the record file as site work progresses. These additional documents may include, but are not limited to, technical reports, additional validated sampling data, comments and new data submitted by interested persons, and EPA responses to significant comments. No further announcement of availability will be made.

The administrative record file is available for review during normal business hours at:

Bell Parish Public Library 204 West Main Bellfield, Louisiana 71483	and	U.S. EPA - Region 6 145 Ross Avenue Dallas, Texas 75202

Public comments on the response decision will be accepted for thirty (30) days from the date this notice appears in print. At the end of the thirty (30) day comment period, a written response to all pertinent comments will be prepared in a responsiveness summary and will be placed in the record file. Written comments on the administrative record file should be sent to:

U.S. EPA - Region 6
ATTN: John Doe
1445 Ross Avenue
Dallas TX, 75231

The OSC is responsible for designating the public comment period and should ensure the completion of the following tasks if a public comment period is required:

- Identifying a contact person within the Agency who will respond to questions regarding the public comment period

- Announcing the start of the public comment period at least two weeks in advance of the event [7]

- Documenting by a memo to the file or record of communications any significant comments expressed that are not received in written form

- Conducting a public meeting to discuss site activities.

At the conclusion of a public comment period, a written response to significant comments is prepared as described below.

Prepare A Written Response to Significant Comments (This activity is required at sites with >six months of planning)

The OSC is required to include a written response to significant comments in the administrative record file for comments received during the comment period on documents in the record file [4]. The written response to significant comments is prepared by the OSC or a designee in conjunction with the ORC with technical understanding of the removal action to address those community concerns received during the public comment period. All comments received by EPA during the comment period should be included in the administrative record. The response may be to comments received in writing or orally, through community interviews or public meetings [5].

Adding to the Administrative Record File After Selecting the Response (This activity is required at sites with >six months of planning)

Following the selection of the response, NCP section 300.825 stipulates that documents may be added to the administrative record file *only* in certain situations [1]. Specifically, the lead agency may add documents to the administrative record file after the decision document selecting the response for the removal action has been signed if:

- The documents concern a portion of the selected response that the decision document (usually the Action Memorandum) does not address or reserves to be decided at a later date

- An amended decision document is issued

7 Depending on site circumstances (e.g., time and resource constraints or the level of public interest), a second notice may be issued immediately prior to the public comment period.

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- The lead agency holds an additional or extended public comment period after the decision document has been signed and additional comments, responsive to the issues included in the request for additional comment, are received

- The lead agency receives comments after the close of the public comment period that contain significant information not contained elsewhere in the administrative record file which could not have been submitted during the public comment period and which substantially support the need to alter the response significantly.

If any of the above situations apply to a removal action, supporting documentation should be included in the administrative record file.

PUBLIC PARTICIPATION ROLES AND RESPONSIBILITIES

The OSC works with the Community Relations Coordinator (CRC) and Administrative Record Coordinator (ARC) when possible to coordinate the design and implementation of public participation activities during a removal action. Additional resources, including other EPA Regional personnel, State or local government representatives, and contractor support are available to assist the OSC with public participation activities [5]. The OSC may use these resources to build a site-specific public participation team, depending on Regional and State procedures as well as site circumstances, such as the level of public interest and the immediacy of the removal action. While the OSC may delegate the conduct of the public participation activities to a team member, ultimate responsibility rests with the OSC. For example, although the actual compilation of the record may have been delegated to the records management staff, the Regional Administrator may consult the OSC prior to certifying the completeness of the administrative record.[8] Exhibit 8 illustrates the resources available to assist the OSC in implementing each of the public participation activities.

Primary Resources

The primary resources available to the OSC for the design and implementation of public participation activities are:

- Community Relations Coordinator (CRC) - serves as the OSC's primary resource for coordinating and monitoring contractor support. The CRC may conduct or oversee support activities such as preparing a community relations plan and fact sheets, conducting community interviews, and maintaining an information repository for the site.

- Administrative Record Coordinator (ARC) - organizes information for the administrative record file according to the Regional file structure. The ARC may provide site file materials from which to compile the record file, assist in compiling the record file to meet the timing requirements established by the NCP, and help identify materials for the information repository.

- Regional Public Affairs staff - provide support for the OSC in media relations tasks, such as developing press releases, processing information requests from the media, or acting as an Agency spokesperson. The assistance of the public affairs staff may be enlisted directly by the OSC or through the CRC.

8 The actual certification of the administrative record is made by a designee of the Regional Administrator.

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EXHIBIT 8. PUBLIC PARTICIPATION RESOURCES AVAILABLE TO ASSIST OSCs

Public Participation Activities	Public Participation Team: Community Relations Coordinator	Public Affairs Staff	State or Local Government Representatives	Regional Removal Enforcement Staff	Office of Regional Counsel	Regional Records Management Staff	Public Information Assist Team	Contractor Support**
Designate Agency Spokesperson	●	●						
Establish Administrative Record File				●	●	●		
Conduct Community Interviews	●		●					●
Prepare Community Relations Plan	●		●					●
Establish Information Repository	●		●	●		●		●
Publish Public Notice								●
Designate Public Comment Period					●			
Prepare Written Response to Significant Comments	●				●			●
Conduct Public Meeting*	●	●	●				●	
Develop Fact Sheets or other Public Information Materials*	●	●		●			●	●
Develop Community Relations Mailing List*	●	●						●
Prepare Meeting Summary*	●							●
Establish On-scene Information Office*	●	●	●	●			●	●

* These community relations activities are available to supplement the community relations approach; they are not required by the NCP.

** In most Regions, CRCs delegate activities to contractor support, where appropriate, and oversee conduct of those activities.

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- State or local government representatives - may assist or, in some situations, take the lead for public participation activities. State and local government personnel are helpful particularly in situations where immediate support is necessary and Regional staff are not available.

Additional Resources

Other support available to assist the OSC in implementing public participation activities includes:

- Regional removal enforcement staff - supports the establishment or maintenance of the information repository. The enforcement staff has many of the site documents necessary for the information repository including documentation of any removal activity conducted by the responsible parties, such as the Work Plan and the Site Safety Plan.

- Office of Regional Counsel (ORC) - must consult with the OSC regarding the contents of the administrative record file prior to documents being made available publicly. The ORC also should be involved in any site activity involving the public's right to information as required by the NCP and CERCLA, including reviewing documentation for inclusion in the administrative record file, preparing the public notice, preparing the community relations plan, and developing the written response to significant comments.

- The United States Coast Guard Public Information Assist Team (PIAT) - is available to assist OSCs in meeting the demands for public information and participation. Assistance from the PIAT may include the preparation of public informational materials and press releases. Requests for the PIAT may be made through the National Response Center.

- Contractor support - may be used to assist in developing the community relations plan, establishing the information repository, and preparing the written response to comments. The OSC may delegate tasks to contractor support personnel identified by the CRC. Depending on the information needs of the site community, the public participation support contractor also may be involved in the development of public information materials and other public participation activities beyond those required by CERCLA and the NCP.

The use of these public participation resources is coordinated by the OSC. As the leader in implementing these activities, the OSC will be responsible for identifying the roles and responsibilities of each staff member and communicating information about the site community and public participation strategy to the staff.

APPENDIX A. COMMUNITY RELATIONS PLAN OUTLINE [5]

Section 1. Overview of Community Relations Plan

This section outlines the purpose of the CRP and the distinctive or central features of the community relations efforts for the site. Any special characteristics of the community and the site also should be introduced. This overview should identify the community relations objectives designed for this particular removal action and describe the relevance of these objectives to the removal process.

Section 2. Capsule Site Description

This section provides the basic historical, geographical, and technical details in order to convey the necessity of a removal action at the site. The description of the site should include:

- Site location and relationship to homes, schools, playgrounds, businesses, lakes, streams, and parks
- History of site use and ownership
- Type of hazardous substances at the site
- Nature of threat and potential threat to public health and environment
- History of inspections and studies conducted at the site.

In addition, the description should identify the lead agency responsible for the removal action.

Section 3. Community Background

This section is a compilation of information gathered during the community interviews. Consequently, this section should focus on the community's perceptions of the events and problems at the site, if applicable. This information should be divided into three parts:

- Community profile, which familiarizes the reader with the community and analyzes key local issues and interests
- Chronology of community involvement, which identifies how the community has reacted to the site in the past
- Description of key community concerns, which analyzes the major public concerns regarding the site and discusses how the removal action addresses these concerns.

Section 4. Highlights of the Community Relations Program

This section summarizes the design for the community relations strategy at the site. If applicable, information about site-specific methods of communication, resources to be used in the implementation of the community relations program, key individuals or organizations expected to play a role in the implementation of the program, and areas of special sensitivity that have been or are being considered during removal activities should be presented in this summary.

Section 5. Community Relations Activities and Timing

This section presents the community relations activities that will be conducted at the site and the proposed timeline for implementing these activities. A planning tool, such as a matrix of the community relations activities as related to the removal activities or milestones at the site, may be used to clarify this section.

Appendix A: Contact List of Key Community Leaders and Interested Parties

The names, addresses, and telephone numbers of all officials and group representatives contacted during the community interviews, along with others who will receive information about site developments, are listed in this appendix. This appendix should not include the names, addresses, and telephone numbers of private citizens contacted for interviews; this information should be included in a separate mailing list that is not made available for public review. The list of community leaders and interested parties should be categorized as follows:

- EPA Regional officials
- Community organizations, environmental groups, and citizens' groups
- State and local officials and agencies
- Media.

This appendix generally requires more frequent updates than the rest of the CRP, to be consistent with changes in government administration and community leadership.

Appendix B: Suggested Locations of Meetings and Information Repositories

Appendix B lists the resources available for implementing the community relations program for the site. This appendix lists recommended locations for public meetings, public availability sessions, and the information repository. Facilities recommended for holding public meetings or public availability sessions include school gyms, town halls, and library meeting rooms. The locations selected for public meetings or availability sessions should be accessible to handicapped individuals and geographically convenient to the community. To aid future planning, the capacity of the meeting room and the name of the contact person for scheduling facilities also should be included in the appendix. Typical locations for information repositories include local libraries, town or city halls, and county offices. Appendix B should include the hours of availability, the names of contacts for access to repository materials, and photocopy fees.

APPENDIX B. REFERENCES[9]

Guidance

[1] OSWER Dir. 9833.3A-1, "Final Guidance on Administrative Records for Selecting CERCLA Response Actions" (December 3, 1990)

Manuals

[2] Community Relations Resources Catalog, Office of Emergency and Remedial Response (March 1989)

[3] "Dealing with the Media: Print and Electronic," Superfund Removal Program Policy Notebook, Volume 2, Office of Emergency and Remedial Response

[4] OSWER Dir. 9203.0-06, "Superfund Responsiveness Summaries (Superfund Management Review: Recommendation #43E)" (June 1990)

[5] OSWER Dir. 9230.0-3B, Community Relations in Superfund: A Handbook (June 1988)

[6] OSWER Dir. 9833.4, Compendium of CERCLA Response Selection Guidance Documents Office of Waste Programs Enforcement (February 1990)

[7] OSWER Dir. 9837.2A, Enforcement Project Management Handbook (January 1991)

[8] Superfund Community Relations Program: A Guide to Effective Presentations with Visual Aids, Office of Emergency and Remedial Response (June 1988)

Statutes and Regulations

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. sections 9601-9675

The National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR Part 300 (March 1990)

[9] Bracketed numbers in front of each reference appear throughout the text to guide the reader to the appropriate information resources.

APPENDIX C. KEY WORDS INDEX

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• U.S. G.P.O.:1992-311-893:60356