



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 14 2016

MEMORANDUM

SUBJECT: Update to 2010 “Revised Guidance on Compiling Administrative Records for CERCLA Response Actions” and Questions and Answers Regarding Implementation of the “National Oil and Hazardous Substances Pollution Contingency Plan; Revision to Increase Public Availability of the Administrative Record File” Final Rule

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TO: Regional Counsels, Regions I-X
Superfund National Program Managers, Regions I-X

On March 18, 2013, EPA promulgated a final rule to amend 40 CFR § 300.805(c) of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), “Location of the Administrative Record File,” to acknowledge advancements in technologies used to manage and convey information to the public (2013 NCP Amendment).¹ The 2013 NCP Amendment added language to broaden the technology—to include computer telecommunications or other electronic means—that the lead agency is permitted to use to make the administrative record file available to the public regarding documents that form the basis for the selection of a response action. The Superfund Enterprise Management System Publishing (SEMS-Pub) application, launched in October 2015, provides the public with increased and simplified access to administrative record files and other information repository documents via the internet.

This memorandum updates portions of the “Revised Guidance on Compiling Administrative Records for CERCLA Response Actions” (2010 Administrative Records Guidance) to ensure consistency with the 2013 NCP Amendment, and provides (in Attachment 1) recommended



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¹ See 78 Fed. Reg. 16612, available at www.gpo.gov/fdsys/pkg/FR-2013-03-18/pdf/2013-06189.pdf.

answers to questions that have arisen since the 2013 NCP Amendment and the launch of the SEMS-Pub application.² It also includes a recommended Site Information Sheet (Attachment 2).

Updates to the 2010 Administrative Records Guidance

On September 20, 2010, our offices issued the 2010 Administrative Records Guidance, which included the following sentences on page 19:

Regions may maintain and make a convenience copy of the administrative record available to the public in a manner other than hard copy (*e.g.*, on CD-ROM, microform, or a flash or thumb drive) in addition to a hard copy at the location at or near the site, so long as the appropriate viewing equipment is available. The Agency may also make the Administrative Record available on the internet, though this should not be the sole method by which the public can access the record.

In light of the 2013 NCP Amendment, these two sentences on page 19 of the 2010 Administrative Record Guidance are replaced as follows:

Pursuant to 40 CFR § 300.805(c), as amended on April 17, 2013, Regions may maintain a copy of the administrative record available to the public in a manner other than hard copy (*e.g.*, on the internet, CD-ROM, microform, or a flash or thumb drive) at the location at or near the site, so long as the proper viewing and copying/printing equipment is available. This amendment does not limit the Regions' ability to make the administrative record file available to the public in traditional forms such as paper and microform. The Region should assess the capacity and resources of the public to utilize and maintain an electronic- or computer telecommunications-based repository to make a decision on which approach suits a specific site. Based on the preferences of the community and the Region's assessment of the site-specific situation, the Region will determine whether to provide: (1) traditional forms (*e.g.*, paper copies, microform), (2) electronic resources, or (3) both traditional forms and electronic resources.

If you have any questions regarding this memorandum and its attachments, contact Julia Field of OSRTI at (703) 603-8851; Anthony Austin of OSRE at (202) 564-6943; or Lisa Boynton of OEM at (202) 564-2487.

Attachments (2)

cc: Office of Regional Counsel Superfund Branch Chiefs
Community Involvement Managers
Removal Managers
Regional Remedial Branch Chiefs
Regional Records Managers

² This guidance and any internal procedures adopted for its implementation are intended solely as guidance for employees of the EPA. Such guidance and procedures do not constitute rulemaking by the Agency and may not be relied on to create a right or benefit, substantive or procedural, enforceable at law or in equity, by any person. The Agency may take action at variance with this guidance and its internal implementing procedures.

Attachment 1

Questions and Recommended Responses Regarding Implementation of the “National Oil and Hazardous Substances Pollution Contingency Plan; Revision to Increase Public Availability of the Administrative Record File” Final Rule

Question 1: Should there be a physical information repository¹ located at or near the site (i.e., a local information repository)?

Response 1: Consistent with the NCP, yes. The 2013 NCP Amendment (78 Fed. Reg. 16612, March 18, 2013) *does not* remove the existing requirement to “establish at least one local information repository at or near the location of the response action.” 40 CFR §§ 300.415(n)(3)(iii) and 300.430(c)(2)(iii). Therefore, the lead agency is still required to designate a physical information repository, though the repository may contain, as described in further detail in the response to Question 2 below, documents in (1) traditional forms (e.g., paper copies, microform), (2) electronic resources (e.g., computer telecommunications or other electronic means), and/or (3) both traditional forms and electronic resources.

Question 2: Should there be a hard copy of the administrative record file² at the local information repository in addition to an electronic copy?

Response 2: As discussed in the preamble to the 2013 NCP Amendment (78 Fed. Reg. at pages 16612-13), the form (traditional or electronic) of the administrative record file at the local information repository will depend on the lead agency’s assessment of the site-specific circumstances, including the preferences of the community, and the capacity of the public to utilize an electronic- or computer telecommunications-based repository:

Community preferences and access to technological resources may be gleaned through community interviews conducted as part of the planning for the Community Involvement Plan (CIP) at a site.³ . . .

¹ “An information repository contains documents that relate to a Superfund site and the Superfund program in general. EPA requires an information repository at all remedial action sites and any site where a removal action is likely to extend beyond 120 days. *See* 40 CFR §§ 300.430(c)(2)(iii), 300.415(n)(3)(iii), 300.415(n)(4)(i). The information repository may contain information beyond the scope of the administrative record because the documents in the administrative record relate to a particular response action selection decision at a site.” *Revised Guidance on Compiling Administrative Records for CERCLA Response Actions* 18, n.17 (OEM/OSRE/OSRTI Sept. 2010), available at <https://www.epa.gov/enforcement/guidance-compiling-administrative-records-superfund-response-actions>.

² “Typically, EPA refers to the administrative record as the ‘administrative record file’ until EPA has selected a particular response action, to avoid creating the impression that the record is complete at any time prior to the final selection decision. *See* 55 Fed. Reg. 8666, 8804-5 (March 6, 1990) (National Oil and Hazardous Substances Pollution Contingency Plan Preamble).” *Revised Guidance on Compiling Administrative Records for CERCLA Response Actions*, *supra* note 1, at 5, n.3.

³ *Community Involvement Plans, Superfund Community Involvement Toolkit*, U.S. EPA (2011) available at <https://semsub.epa.gov/src/document/11/174739>.

... Conducting community interviews typically is a particularly effective way to gather information about community needs, questions, and concerns, as well as expectations and unique needs or cultural behaviors, customs, and values. Community interviews also give the lead agency the opportunity to hear the preferences of community members that may have otherwise hesitated to share during a public meeting or availability session. The information and insights gained from community interviews will help the lead agency to assess the capacity and resources of the community to utilize and maintain an electronic- or computer telecommunications-based repository, and to make a decision on which approach suits a specific site and best encourages the community's participation.

In addition, in accordance with Section 508 of the Rehabilitation Act of 1973, as amended, the lead agency is responsible for ensuring that all electronic and information technology is accessible to persons with disabilities. This typically involves procuring, creating, maintaining and using electronic and information technology, including, Web sites, software, hardware, video and multimedia, and telecommunications, that is Section 508 compliant,⁴ as well as incorporating other techniques to ensure accessibility.

Further, if the lead agency determines it is appropriate to maintain the copy of the administrative record file at the local information repository in a form other than hard copy, there should be appropriate viewing and copying/printing equipment available. For example, if the lead agency compiles a web-based record, the site team should ensure that the public has access (via the local information repository) to a computer and internet connections with which to view and make copies of the record.

Question 3: What are the practices/procedures for establishing an electronic information repository at the local information repository?

Response 3: The following practices/procedures should be considered when establishing an electronic information repository to ensure that the documents are easily available and accessible to the public.

Using the Superfund Enterprise Management System Publishing (SEMS-Pub) for Administrative Records and Other Information Repository Documents

Providing administrative record file and other information repository content in a standardized electronic format on the EPA website can facilitate the Region's responsibility to provide content to the public. The SEMS-Pub application provides increased and simplified access to the public by providing administrative record file and other information repository documents via the internet. This format is convenient for

⁴ Further information on Section 508 is available at <https://www.section508.gov/>.

viewing documents from anywhere, useful in simplifying public access to administrative record file documents, and consistent with the NCP on maintaining a copy of the administrative record file available to the public at a location at or near the site.

The EPA has developed recommended standard operating procedures on the SEMS-Pub application and the steps typically used to publish releasable administrative record collections stored in the Superfund Enterprise Management System Records Management (SEMS-RM) system to the Superfund site profile pages (SPPs) for public access.⁵ Because SEMS-RM is an existing database available to all Regions for the creation and storage of administrative records in administrative record document collections, the SEMS-Pub application capitalizes on the current use of SEMS-RM, while providing a national solution for electronic document management and distribution of ARs.

Regional Records Managers should follow standard operating procedures to prepare documents for public electronic availability. These procedures allow Regional Records Managers and their contractors to freeze and publish releasable AR Collections in SEMS-RM for publication on the Agency website. The SEMS-Pub application also serves as a search tool enabling users to search for and access ARs for sites that have been published using SEMS-Pub. At this time, Regions do not need to publish ARs using SEMS-Pub.

Creating an Electronic Information Repository at the Local Information Repository

If the lead agency determines that community preferences and access to technological resources warrant the transition to electronically-available site documents at the local information repository, the lead agency should:

- (1) Determine whether all documents at the repository are in an electronic format that can be made available to the public. This includes ensuring that all electronic and information technology is accessible to persons with disabilities (see Response 2, *supra* at pages 3-4).
- (2) Ensure any relevant site documents at the repository that are not in an electronic format are produced in or converted to an electronic format before removal/discarding the paper copy of the document. This process includes considering the procedures outlined in the SEMS-Pub SOP described above for AR documents; producing document collections on CD-ROM for non-AR site documents stored in SEMS-RM until web-based publishing resources are nationally available; and/or providing web addresses to epa.gov SPPs for document content.
- (3) Work with the repository staff and the community to determine whether paper copies of documents should be removed, relocated, or destroyed once the records are available electronically. The lead agency should maintain the official administrative record at the

⁵ Please note that SPPs are currently created only for sites listed on the NPL. At this point, ARs for non-NPL sites (*e.g.*, removal sites) are not linked to a corresponding SPP, but can be found using SEMS-Pub Superfund Records Collections, available at <https://semspub.epa.gov/src/search>.

lead agency's office in accordance with appropriate records schedules. *See* EPA Records Schedules 1036 and 0008.⁶

(4) Include information on how to access the SEMS-Pub application in the letter sent to repository staff when the administrative record file is established at the repository site; when the administrative record is updated; or when updates/changes are made to the SEMS-Pub application for access to AR content.

(5) Ensure that proper viewing equipment is available for the public to access the information repository documents electronically before removing and/or relocating paper files. This equipment/technology may include a computer, internet access, and/or a printer. Additionally, the lead agency should provide the following documents at each local information repository to aid in public access to the electronic documents:

(A) Basic description and search tips for locating files using the SEMS-Pub application. An example is shown in Attachment 2.

(B) A site-specific fact sheet detailing items including but not limited to: site name and brief site history; site location; location of the physical repository and repository hours; the site's URL to the SPP with instructions for finding the ARs and other document collections on the SPP; and site team contacts (*e.g.*, Remedial Project Manager (RPM); Community Involvement Coordinator (CIC); On-Scene Coordinator (OSC)). The Regional Records Manager and/or site team (*e.g.*, RPM, CIC, OSC), in the Region's discretion, should ensure this information remains up to date. An example is shown in Attachment 2.

(6) Consider putting the web address for electronic access to site documents in the public notice along with the physical location of the local information repository and repository hours.

Question 4: Should the paper copy of the administrative record file at the local information repository be destroyed, removed, or replaced with an electronic copy?

Response 4: The lead agency should maintain the official administrative record at the lead agency's office in accordance with appropriate records schedules.⁷

If the lead agency determines that community preferences and access to technological resources warrant the transition to electronically-available site documents at the local information repository, the lead agency may destroy, remove, or replace paper copies of documents only after taking certain steps, including (1) confirming that all documents at the local information repository are in an electronic format that can be made available to the public, and (2) ensuring

⁶ EPA Records Schedule 019 "Administrative Records - Superfund Site-Specific," has been deleted and consolidated into EPA Records Schedules 1036 and 0008, currently in draft form. Available on EPA's Intranet site at <http://intranet.epa.gov/records/schedule/draft/1036.html>.

⁷ EPA Records Schedules 1036 and 0008, *supra* note 6.

that there are no pending legal obligations, such as a litigation hold or court order, to maintain the paper copy. Also, EPA Regional Records Managers should follow the guidance and standard operating procedures to prepare administrative record documents for public electronic availability. Practices and procedures for establishing an electronic information repository are discussed in Response 3.

Question 5: Is there a policy for closing the local information repository at the site or for how long the repository should remain open and available?

Response 5: There is no formal policy on the time frame for which the lead agency is required to maintain the local information repository. The lead agency should consider the recommendations in the 2010 AR Guidance, which states: “For general records maintenance, EPA should maintain the public record at least until all cleanup actions (as well as Five Year Review and long-term monitoring) and litigation concerning a site are complete and any statutes of limitation for cost recovery have passed.”⁸ Prior to closing a local information repository, the lead agency should coordinate with the appropriate Office of Regional Counsel and/or Office of General Counsel. In addition, the lead agency should gather community input, on a site-specific basis, to determine whether it is appropriate to close the local information repository at a site.

This question typically arises when repository staff indicates that there is no longer adequate space to house the paper records at the physical repository location, or when the local repository reports very limited requests for site documents by the public. The lead agency should consider following the practices outlined in Responses 3 and 4 for making the information repository files available to the public electronically at the local information repository to reduce space concerns.

⁸ *Revised Guidance on Compiling Administrative Records for CERCLA Response Actions*, *supra* note 1, at 28.

Attachment 2 – Recommended Site information Sheet

[REGIONAL LETTERHEAD]

WELCOME TO THE [Site Name] SUPERFUND SITE LOCAL INFORMATION REPOSITORY

The U.S. Environmental Protection Agency is required by law to establish administrative records “at or near a facility at issue.” The administrative record¹ consists of information upon which the Agency bases its selection of response action for a particular Superfund site.

By providing the public with greater access to these records, we hope that it will be better equipped to comment constructively on site activities and to understand the issues relating to the selection of the response action at the site.

We appreciate the [BUILDING NAME] serving as the designated local information repository for the [SITE NAME] Superfund Site. The [SITE NAME] Administrative Record File and other site documents have been made available to the public on the internet at: <https://semspub.epa.gov/src/home/search.jsf>.

Please see the included “Instructions for Searching Superfund Records Collections Online” to view records related to the site.

Site Name:
Site EPA ID:
Site location (Street, City, State)
EPA Region:
Site Profile Page:

For more information or questions, please contact:

[CIC/RPM/OSC contact information]

Local information repository hours and information:

[Insert address, phone #, and hours of operation for local information repository.]

¹ Typically, EPA refers to the administrative record as the “administrative record file” until EPA has selected a particular response action, to avoid creating the impression that the record is complete at any time prior to the final selection decision. *See* 55 Fed.Reg. 8666, 8804-5 (March 6, 1990) (National Oil and Hazardous Substances Pollution Contingency Plan Preamble).

Instructions for Searching Superfund Records Collections Online

The [SITE NAME] Administrative Record File and other site documents have been made available to the public on the internet. From this website you may view and print site documents.

By visiting this website, you will have access to the site Administrative Record File and special collection documents.

Step 1: Enter <https://sempub.epa.gov/src/home/search.jsf> into the web browser search bar. You will see the following page appear:

Administrative Record: Helps explain to the Public why the EPA conducted a particular response at a site.
Special Collection: Specialized collection of records created for various purposes.

Select Superfund Records Collections Details

* Region

* Collection Type

Collection ID

Collection Description

* Required Field

Step 2: Enter the **EPA Region** in which the Superfund site is located from the drop-down menu. This information is found on the site information sheet. Also choose the **Collection Type** from the drop-down menu.



Superfund Records Collections

Search for Superfund Records Collections

Administrative Record: Helps explain to the Public why the EPA conducted a particular response at a site.
Special Collection: Specialized collection of records created for various purposes.

Select Superfund Records Collections Details

* Region

* Collection Type

Collection ID

Collection Description

* Required Field

Administrative record: Contains documents that help explain to the public why the EPA conducted a particular response at a site. Administrative Record documents include: Records of Decision (RODs), Proposed Plans, site investigation reports, Action Memorandum and Administrative Orders.

Special Collection: Contains a specialized collection of documents created for various purposes. These documents include fact sheets and public meeting notes.

Step 3: Select the site **state** and **site name/EPA ID** to narrow the search results. This information can be found on the site information sheet. *Note, you must enter the state first, and then the list of site names will appear in the “Site” drop down menu.* Then press the “**Submit**” button.



Superfund Records Collections

Search for Superfund Records Collections

Administrative Record: Helps explain to the Public why the EPA conducted a particular response at a site.
 Special Collection: Specialized collection of records created for various purposes.

Select Superfund Records Collections Details

* Region

* Collection Type

Collection ID

Collection Description

State ←

Site ←

OR

EPA ID

←

* Required Field

Step 4: Click on the hyperlinks under “**Collection Description**” to view documents in that collection.

Advanced Search SEARCH

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Superfund Records Collections

[Superfund Records Collections Home](#)

Region: 03 Collection Type: Administrative Records EPA ID: MDD980918387

Displaying 1 - 2 of Total 2 Administrative Record Collections

State	Collection ID	Collection Description	EPA ID	Site Name	OU ID	OU Name
MD	60412	REMOVAL	MDD980918387	68TH STREET DUMP/INDUSTRIAL ENTERPRISES	00	SITEWIDE
MD	60595	REMEDIAL	MDD980918387	68TH STREET DUMP/INDUSTRIAL ENTERPRISES	01	LANDFILLS

Step 5: Click on a document title link to view the document. You can sort the documents by date, or by other characteristics, by clicking on the small white arrows at the top of the columns.

EPA United States Environmental Protection Agency

Advanced Search **A-Z Index**

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Superfund Records Collections

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Superfund Site: 68TH STREET DUMP/INDUSTRIAL ENTERPRISES (EPA ID: MDD980918387)
Collection ID: 60412 Collection Description: REMOVAL

Appearing on this page is the list of documents making up the selected Administrative Record File. Highlighted at the top of the list is the Index of Documents. This formal version of the list of documents can be text searched and printed for convenience. It may contain additional information about the Administrative Record File.

Show/Hide OU ID EPA ID

Index of Documents						
Date	Index Document Title	DocID	Author/(Org)	Addressee/(Org)	Pages	Size
05/16/2003	REMOVAL ADMINISTRATIVE RECORD FILE INDEX OF DOCUMENTS	2089759			4	16.97 KB

Displaying Page 1 / 16 of Total 16 Administrative Record Documents

Date	Title	DocID	Author/(Org)	Addressee/(Org)	Pages	Size
06/05/2009	CERTIFICATION REPORT- REMOVAL RESPONSE ACTION (6/11/09 APPROVAL LETTER ATTACHED)	2170071	CORBETT, CHRISTOPHER, J (EPA);;	HOSMER, J. LAWRENCE (ENVIRONMENTAL RESOURCES MANAGEMENT INC); (68TH STREET SITES COALITION);	1619	28.48 MB
08/18/2008	CERTIFICATION REPORT - REMOVAL RESPONSE ACTION - UNCLAIMED LANDFILL (8/27/08 APPROVAL LETTER ATTACHED)	2170073	CORBETT, CHRISTOPHER, J (EPA);;	(68TH STREET SITES COALITION);;HOSMER, J. LAWRENCE (ENVIRONMENTAL RESOURCES MANAGEMENT INC)	126	12.11 MB
05/30/2008	RESPONSE ACTION PLAN (7/25/08 ACCEPTANCE LETTER ATTACHED)	2170072	CORBETT, CHRISTOPHER, J (EPA);;	HOSMER, J. LAWRENCE (ENVIRONMENTAL RESOURCES MANAGEMENT INC); (68TH STREET SITES COALITION);	198	16.57 MB
05/07/2008	TRANSCRIPT OF PUBLIC INFORMATION SESSION - EARLY REMOVAL ACTION - DOCKET NO. 03-2008-0140 DC	2159185	NORRIS, KENNETH (WHITMAN REPORTING - ROCKVILLE);NORRIS, KENNETH (TOWSON REPORTING CO)		111	154.88 KB
04/22/2008	PUBLIC NOTICE: EARLY REMOVAL ACTION AT THE 68TH STREET LANDFILL SUPERFUND SITE	2159193			1	229.98 KB