

LONGHORN ARMY AMMUNITION PLANT

KARNACK, TEXAS

ADMINISTRATIVE RECORD

VOLUME 1 of 1

1990

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**LONGHORN ARMY AMMUNITION PLANT
KARNACK, TEXAS
ADMINISTRATIVE RECORD - CHRONOLOGICAL INDEX**

VOLUME 1 of 1

1990

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Army Regulation 200-1

004128

Environmental Quality

Environmental Protection and Enhancement

**Headquarters
Department of the Army
Washington, DC
23 April 1990**

SUMMARY of CHANGE

AR 200-1

Environmental Protection and Enhancement

This revision--

- o Clarifies responsibilities, policies, and procedures to protect and preserve the quality of the environment per existing Federal laws (chap 1).
- o Prescribes research and development to reduce hazardous material used and hazardous waste generated in producing new materiel and maintaining existing materiel (chap 2).
- o Includes commands outside of the continental United States (OCONUS) (chaps 1, 5, 6, 7, 8, 10, 11, and 12).
- o Incorporates non-point source abatement in all construction, installation operations, and land management plans and activities (chap 3).
- o Incorporates tables of regulated and unregulated contaminants (chap 3 and tables 3-1, 3-2, and 3-3).
- o Incorporates requirements of the Resource Conservation Recovery Act (RCRA) to regulate the release of air emissions from hazardous waste treatment, storage, and disposal facilities (chap 4).
- o Incorporates management of hazardous material to include the Army hazardous waste minimization program (chap 5).
- o Requires compliance with RCRA Subtitle I - underground storage tanks (chap 5).
- o Requires commanders to enter into compliance agreement and consent orders (chap 6).
- o Requires development and implementation of an installation solid waste and hazardous waste management plan (chap 6).
- o Requires installation tenants to fund and prepare environmental documentation per the National Environmental Policy Act (NEPA) (chap 6).
- o Incorporates and requires establishment of a waste minimization program (chap 6).
- o Incorporates and requires compliance with the Medical Waste Tracking Act of 1988 (chap 6).
- o Requires recording of all open or closed solid and hazardous waste disposal units (chap 6).
- o Expands the installation recycling program (chap 6).

- o Deletes waivers and exemptions from noise standards (chap 7).
- o Incorporates requirements in the environmental restoration program per the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Superfund Amendments and Reauthorization Act (SARA) of 1986. Establishes the installation restoration (IR) and formerly used defense sites (FUDS) programs (chap 9).
- o Incorporates the asbestos management program as a new chapter (chap 10).
- o Incorporates the Army radon reduction program as an entirely new chapter (chap 11).
- o Adds a new chapter which includes: on-the-ground work, real property transactions, environmental agreements, environmental compliance, auditing, reports, an environmental quality control committee, and military construction sites (chap 12).

Headquarters
Department of the Army
Washington, DC
23 April 1990

***Army Regulation 200-1**

Effective 23 May 1990

Environmental Quality

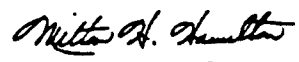
Environmental Protection and Enhancement

This UPDATE printing publishes a revision of this publication. Because the publication has been extensively revised, the changed portions have not been highlighted.

By Order of the Secretary of the Army:

CARL E. VUONO
General, United States Army
Chief of Staff

Official:


MILTON H. HAMILTON
Administrative Assistant to the
Secretary of the Army

Summary. This regulation covers environmental protection and enhancement.

Applicability. This regulation applies to the Active Army, The Army National Guard, and the U.S. Army Reserve. It also applies to tenants, such as other Federal agencies, contractor activities, and lessees, located on real property in the United States under Department of the Army jurisdiction. Operating contracts at Government-owned, contractor-operated facilities will reference this regulation or will include applicable provisions of this regulation. This regulation does not apply to those civil works activities under the jurisdiction of the Secretary of the Army and implemented by the U.S. Army Corps of Engineers.

Internal control systems. This regulation is subject to the requirements of AR 11-2. It contains internal control provisions but does not contain checklists for conducting internal control reviews. These checklists are being developed by the Army Environmental Office (HQDA (ENVR-E)) and will be published at a later date.

Supplementation. Supplementation to this regulation and establishment of command and local forms are prohibited without prior written approval from HQDA, the Office of the Chief of Engineers (OCE). The requirements in such supplements and forms must be consistent with and no less stringent than the requirements in this regulation.

Interim changes. Interim changes to this regulation are not official unless they are authenticated by the Administrative Assistant to the Secretary of the Army. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

Suggested improvements. The proponent agency of this regulation is OCE. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQDA (ENVR-E) WASH DC 20310-2600.

Distribution. Distribution of this publication is made in accordance with the requirements on DA Form 12-09-E, block number 3190, intended for command level D for Active Army, ARNG, and USAR.

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Chapter 1 Introduction

Section I Environmental Overview

1-1. Purpose

This regulation prescribes Department of the Army (DA) responsibilities, policies, and procedures to preserve, protect, and restore the quality of the environment. It incorporates all applicable statutory and regulatory requirements in the areas of research and development; water resources management; air pollution abatement; hazardous materials management; solid and hazardous waste management; noise abatement; oil and hazardous substances spill contingency planning, control, and emergency response; environmental restoration; asbestos management; radon reduction; and other environmental programs.

1-2. References

Required and related publications and referenced forms are listed in appendix A.

1-3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

1-4. Statutory authority

Statutory authority for this regulation is derived from Titles 7, 10, 15, 16, 33, and 42 of the United States Code, and Titles 10, 29, 33, 40, and 49 of the Code of Federal Regulations.

Section II Responsibilities

1-5. The Secretary of the Army (SA)

a. The SA serves as trustee for the natural resources managed by the Army.

b. For oil and hazardous substances spill contingency planning, control, and emergency response, the SA will—

(1) Respond to notification from installation on-scene coordinators (IOSCs) of potential damage to natural resources due to spills of oil or hazardous substances. Upon such notification, conduct a preliminary survey of the area affected by the spill and cooperate with the IOSC in coordinating assessments, investigations, and planning.

(2) Evaluate damage to natural resources due to the spill, and request that the Attorney General seek compensation from the responsible party or parties for the damage assessed, costs of assessment, and planning and carrying out the restoration.

(3) Develop and execute a plan for restoration, rehabilitation, replacement, or acquisition of equivalent natural resources.

(4) Develop rules for the indemnification of response action contractors.

1-6. Principal Headquarters, Department of the Army (HQDA) officials

a. Overall, Principal HQDA officials will—

(1) Integrate environmental considerations into regularly assigned staff management functions and activities per section 101(a) of the National Environmental Policy Act (NEPA).

(a) Ensure compliance with applicable pollution abatement and environmental protection laws.

(b) Demonstrate Army leadership in the national effort to protect and improve the environment.

(2) Designate and maintain a point of contact (POC) for coordination with HQDA (ENVR-E) to—

(a) Evaluate the potential environmental impact of all proposed policies, procedures, and actions.

(b) Develop and maintain mitigation measures for those actions having adverse impacts.

b. For the hazardous materials management program, the HQDA officials will ensure that they—

(1) Understand the effect of Federal regulations and Army policies on the use of hazardous materials on their operations.

(2) Understand how their decisions relative to hazardous material affect subsequent operations.

(3) Take actions to carry out the requirements of this regulation. Proponents of Army regulations are responsible for revising applicable guidance to facilitate achieving the objectives of this regulation.

1-7. The Assistant Secretary of the Army (Installations, Logistics, and Environment) (ASA(IL&E))

a. Overall, the ASA(IL&E), through the Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health (DASA(ESOH))) has ultimate responsibility for the Army's environmental programs, and overall policy and guidance authority concerning all Army environmental matters.

b. For the hazardous materials management program, the ASA(IL&E) will—

(1) Exercise primary Army responsibility for overall supervision and direction of the Army's hazardous materials management program.

(2) Oversee the Army's program for demilitarizing the unitary chemical stockpile.

(3) Maintain a plan implementing Department of Defense (DOD) Directive 4210.15. Amend Army regulations to avoid or reduce the use of hazardous material.

(4) As of the end of the fiscal year (FY) prepare a briefing book on progress to achieve total quality management of hazardous materials and, upon request, submit it to the Assistant Secretary of Defense (Production and Logistics) and the Assistant Secretary of Defense (Force Management and Personnel). Brief the Under Secretary of the Army prior to briefing DOD. Briefings will cease 6 years after the publication of DOD Directive 4210.15 unless extended by revisions to the DOD directive.

(5) Provide quantitative records of progress in hazardous materials reduction to the Assistant Secretary of Defense (Production and Logistics) on an as-needed basis.

c. For solid waste and hazardous waste management program the ASA(IL&E) will—

(1) Provide policies on the management of solid waste, hazardous waste, and medical wastes.

(2) Initiate proactive efforts to identify more efficient and cost-effective means of treating and disposing of both solid and hazardous waste, to include regional treatment facilities and existing industrial wastewater treatment plants for treating hazardous wastes.

(3) Establish and maintain a hazardous waste minimization workgroup to formulate policy and a 5-year plan to—

(a) Reduce or eliminate hazardous waste and the need for disposal.

(b) Identify, implement, and fund studies and initiatives to reduce hazardous waste generation in the Army.

d. For the asbestos management program, the ASA(IL&E) will provide overall Army policy and direction, and serve as the primary liaison with the Office of the Secretary of Defense (OSD) and other agencies for this program.

1-8. The Assistant Secretary of the Army (Financial Management) (ASA(FM))

a. For solid waste and hazardous waste management, the ASA(FM) will—

(1) Develop and implement policies and procedures to fund hazardous waste disposal costs in a manner to encourage waste minimization.

(2) Establish an Army-wide hazardous waste reduction awards program, beginning in fiscal year (FY) 1990, to provide funding on an annual basis for ideas that result in a reduction of the volume or quantity and toxicity of hazardous wastes generated at Army installations. The program will recognize individual command achievements.

b. For environmental restoration programs, the ASA(FM), through the Director of the Army Budget, will—

(1) Ensure that financial management procedures provide an auditable trail of transfers from the Defense Environmental Restoration Account (DERA) to Army appropriations.

(2) Ensure that finance and accounting reports reflect the status of obligations of funds transferred from DERA to Army appropriations.

(3) Ensure that transfers from DERA are not reprogrammed for other uses, and that DERA funds are not used for matters not addressed in paragraph 9-4 a or b, included in any deferral or sequestration action, unless so directed by the Congress.

(4) Ensure that procedures provide that funds recovered under 10 USC 2703(e), except in relation to the Rocky Mountain Arsenal (RMA), will be credited to the DERA appropriation, by forwarding such funds to the Director for Budget and Finance, Washington Headquarters Services, WASH DC 20310-0105. Per Public Law 99-661, all funds awarded to the United States concerning RMA will be available only for corrective action at RMA.

1-9. The Assistant Secretary of the Army (Research, Development, and Acquisition) (ASA(RDA))

a. For the hazardous materials management program, the ASA(RDA) will—

(1) Ensure that all material procured by the Army is designed to minimize health and environmental hazards at all phases of the life cycle of the material, including but not limited to—

- (a) Research and development.
- (b) Production.
- (c) Testing.
- (d) Storage.
- (e) Use.
- (f) Ultimate disposition.

(2) Ensure that the volume or quantity and toxicity of hazardous materials (asbestos, for example) is reduced as much as possible—

(a) Through the life cycle of the development, acquisition, operation, use, or disposal of Army materiel for weapons system design, development, testing, and placement.

(b) In the management of production base support programs.

(3) With assistance from the ASA for Manpower and Reserve Affairs, review directives covered by the DOD directives system and recommend to the proponent inclusion of functionally specific hazardous material management guidance.

(4) Require contractors to provide a material safety data sheet (MSDS), as specified in 29 CFR section 1910.1200 and Federal and/or Defense acquisition regulations (FAR)/(DEFAR), for each type of chemical procured.

b. For the solid waste and hazardous waste management program, the ASA(RDA) will—

(1) Identify, implement, and fund studies and initiatives to reduce hazardous waste generation at Government-owned production facilities; establish formal procedures to focus on environmental and health factors as part of the Army's acquisition process; and review technical documents to identify waste minimization opportunities.

(2) Ensure that materiel research, development, and acquisition for new weapons systems are conducted in a manner that includes alternative technologies/processes towards achievement of the Army's hazardous waste reduction goals.

(3) Ensure that the Army procurement accounting and reporting system (APARS) emphasizes waste minimization through resource recovery, recycling, identification of requirements and specifications for source reduction, and waste disposal pursuant to FARs.

c. For the environmental noise abatement program, the ASA(RDA) will—

(1) Ensure compliance with proper noise standards during test and evaluation (T&E) of Army materiel and operational testing.

(2) Monitor compliance with applicable noise control standards during the development and testing of new materiel.

(3) Assess the noise impact of new materiel (including the potential for hearing-hazardous noise) as early in the development cycle as is practicable.

1-10. The General Counsel (GC)

The GC will provide legal advice to the DASA(ESOH) on all environmental matters affecting the Army. Specifically, GC will—

a. Provide legal advice and assistance to DA officials responsible for developing and promulgating environmental legal policy.

b. Advise and assist DA officials testifying at local, State, Congressional, and Federal agency hearings concerning environmental legal policy.

c. Monitor Army environmental litigation activities of interest to DA and participate in those cases having potentially significant effects on Army environmental policy.

d. Monitor environmental legislative developments of interest to DA.

1-11. The Chief of Public Affairs (CPA)

a. Overall, the CPA will, in coordination with HQDA (ENVR-E) and MACOM public affairs offices, provide policy, guidance, and oversight for comprehensive public affairs guidance support to the Army's environmental programs.

b. For solid waste and hazardous waste management, the CPA will—

(1) Establish, coordinate, and disseminate public affairs guidance to conduct MACOM public affairs activities on waste management, including waste minimization.

(2) Review all MACOM public affairs plans pertaining to waste management.

c. For the environmental noise abatement program, the CPA will provide guidance for preparing an installation compatible use zone (ICUZ) public information support plan.

d. For oil and hazardous substances spill contingency planning, control, and emergency response, the CPA will serve as the point of contact (POC) for news media inquiries on oil and hazardous substance spills that have national significance and will—

(1) Provide guidance on public affairs requirements regarding conformance with the Community Right-To-Know Act.

(2) Be the POC for information release regarding Forces Command (FORSCOM) support during activation of the national response team (NRT).

1-12. The Deputy Chief of Staff for Operations and Plans (DCSOPS)

a. Overall, the DCSOPS will ensure minimal environmental pollution from the manufacture, storage, maintenance, transportation, and demilitarization of munitions, chemical agents, and weapons.

b. For the hazardous materials management program, the DCSOPS will—

(1) Ensure that required operational capability (ROC) documents for new materiel involving potentially hazardous materials require that safe and environmentally acceptable methods be developed and included as part of procurement specifications for—

- (a) Storage and rotation of stock.
- (b) Ultimate disposition of these materials.
- (c) Allowance for substitution of hazardous materials with non-hazardous materials.

(2) Designate a single Army POC for all chemical warfare activities, including surety issues and associated disposal.

c. For the solid waste and hazardous waste management program, the DCSOPS will—

(1) Ensure that the proper requirement documents include provisions throughout the life cycle of equipment for—

- (a) Source reduction.
- (b) Material reclamation.
- (c) Resource recovery.
- (d) Recycling.
- (e) Waste management.

(2) Authorize, identify, and ensure that the specialized personnel and equipment needed are on the table of distribution and allowances (TDA) of installations to support waste management.

d. For the environmental noise abatement program, the DCSOPS will—

(1) Review ICUZ studies that have significant legal or political ramifications or have noise zones III extending beyond the installation's boundaries.

(2) Ensure that noise impacts are considered in the planning process for major stationing actions and fielding of major weapon systems.

(c) Coordinate with the Commanding General, U.S. Army Training and Doctrine Command (CG, TRADOC) to develop requirements for devices to be used during training to abate and control noise emissions from military equipment.

(4) Coordinate with the CG, TRADOC, to develop requirements for simulation and sub-caliber devices to be used during training to abate the noise emissions of military training.

(5) Require the maintenance of range and aircraft operational data per chapter 7 by plans, operations and training personnel.

(6) Develop, execute, and manage guidance for participation of plans, operations, and training personnel in the ICUZ program.

e. For oil and hazardous substances spill contingency planning, control, and emergency response, the DCSOPS will exercise staff supervision of Army support to the U.S. Environmental Protection Agency (EPA) and U.S. Coast Guard (USCG), per the national contingency plan (NCP), in the cleanup of spills not due to Army activities.

f. For the asbestos management program, the DCSOPS will ensure that ROC documents for new materiel and equipment using asbestos (for which asbestos-free substitutes do not exist) specify that safe and environmentally acceptable handling methods be developed and included as a part of procurement specifications.

1-13. The Deputy Chief of Staff for Logistics (DCSLOG)

a. For the hazardous materials management program, the DCSLOG will—

(1) Act as the principal Army Staff office to develop and maintain a total quality management plan for hazardous materials to implement DOD Directive 4210.15.

(2) Ensure that MACOMs comply with chapter 5 of this regulation.

(3) Provide Army-wide policy and guidance on the storage, use, and transportation of hazardous materials.

(4) Establish and maintain a proactive program and procedures to reduce the use and toxicity of hazardous materials through supply and maintenance activities by encouraging methods such as, but not limited to, product substitution and the extension of the shelf-life of materials. This requires establishing and updating a system to monitor installation-wide use of hazardous materials to measure progress in reducing the use, volume, and toxicity of hazardous materials (consistent with Federal and Army hazardous materials and waste reduction goals and requirements).

(5) Evaluate hazardous material decision using economic analysis techniques consistent with DOD Directive 7041.3.

(6) Measure progress in reducing the use, volume, and toxicity of hazardous materials.

(7) Provide training for logistical personnel on the storage, use, and transportation of hazardous materials to ensure compliance with State and Federal laws and regulations.

(8) Promote the demonstration and application of systems to improve the storage, use, and transportation of hazardous materials.

(9) Formulate Army policy for the acquisition, inventory, distribution, use, tracking, and reporting of hazardous material.

(10) Formulate policies on the management and disposal of radioactive materials.

(11) Promote the reuse, recycling, and reclamation of excess and outdated chemicals.

(12) Ensure that the Army master data file (AMDF) includes codes for all hazardous materials and is updated annually. (Also see para 1-16e(5).)

b. For the solid waste and hazardous waste management program, the DCSLOG will—

(1) Ensure the Army logistical system takes measures to maintain equipment to extend its useful life and to reduce and recycle wastes.

(2) Ensure that proper TDA allowances are made for resource recovery equipment.

(3) Ensure that material is designed, procured, and used in such a way that the least possible amount of waste is generated.

(4) Ensure that the supply system is rigorously managed to minimize the use of hazardous materials that result in the generation of solid and hazardous wastes. Use methods such as reducing procurement and use of hazardous materials, and reducing the frequency of shelf-life losses, accidental spillage, and contamination.

(5) Develop procedures requiring full implementation and of the safety hazardous information tracking system to establish accountability for hazardous materials acquired through the supply system. Develop other procedures for installations not using the standard Army intermediate level supply (SAILS). For all installations, develop procedures to identify and account for hazardous materials purchased locally.

(6) Coordinate with Defense Logistics Agency (DLA) to have separate stock numbers assigned to nonhazardous solvents and materials so that they may be readily identified and ordered. As a minimum, all Army installations and activities should be advised that both type I and type II solvents should be managed as hazardous waste and properly disposed of unless specific knowledge is available that a particular batch of solvent is nonhazardous.

(7) Coordinate with the Office of the ASA(RDA), ASA(IL&E), Chief of Engineers (COE), and DLA to identify and implement materials substitution initiatives that will contribute to a reduction in solid waste and hazardous waste generation.

(8) Monitor Army-wide use of hazardous materials and generation of hazardous waste to measure progress in meeting Federal, host nation, and Army waste reduction goals.

(9) Coordinate with COE to provide policy and guidance on the transportation of hazardous wastes, including recordkeeping and reporting requirements to local, State, and Federal regulatory officials.

(10) Provide training for logistical personnel on the transportation of hazardous waste to ensure compliance with State and Federal laws and regulations.

(11) Provide Army-wide policies to reduce mission stockpiles, donate or exchange hazardous materials, especially excess or shelf-life-expired items, to other Federal and State agencies, and private industry.

(12) Ensure that supply policies and procedures to implement the requirements of this chapter reflect host installations outside the continental United States. (OCONUS).

c. For the asbestos management program, the DCSLOG will ensure that procured materiel contains no asbestos unless asbestos-free substitute materials do not exist.

1-14. The Chief of Engineers

a. For the research and development program, the COE has primary Army Staff responsibility to ASA(RDA) to—

(1) Plan, program, budget, and coordinate all research in the areas of environmental and human health effects; installation restoration cleanup methods and technologies; hazardous waste control and minimization; noise mitigation; and restoration and management control of training areas. This research includes basic, exploratory development and advanced nonsystems development.

(2) Ensure that the environmental quality technology (EQT) program supports the Army and DOD in meeting the objectives of the installation restoration program, hazardous waste control/minimization program, and all appropriate environmental laws, regulations, and designated goals.

(3) Coordinate environmental research programs conducted by the MACOMs.

(4) Formulate and defend the annual environmental research program budgets.

(5) Plan, program, budget, and execute environmental research in support of construction and operations and maintenance of my facilities worldwide.

b. For the water resources management program, the COE will—

(1) Exercise primary Army Staff responsibility to direct and coordinate the Army's water pollution abatement program.

(2) Issue regulations on DA water resources management.

(3) Develop long-range programs on water pollution control to achieve the water quality goals of applicable laws and regulations.

(4) Coordinate new and revised water quality criteria and standards with The Surgeon General (TSG).

(5) Provide technical assistance to MACOMs, State adjutants general (through Chief, National Guard Bureau (CNGB) (NGB-ARI-E), and installations on the planning and review of construction projects for—

(a) Wastewater treatment facilities.

(b) Systems to control surface runoff and nonpoint sources of water pollution.

(c) Drinking water treatment facilities.

(d) Swimming pools and other recreational waters.

(e) Water quality monitoring systems. The U.S. Army Engineering and Housing Support Center (USAEHSC) is a field operating agency (FOA) under the COE that has design review capabilities, and may be consulted during the review process.

c. For the hazardous materials management program, the COE will—

(1) Provide policy and guidance on the disposal of hazardous materials.

(2) Provide policy to implement and administer pest management programs, including pest management practices.

(3) Provide policy and guidance on implementing corrective action to mitigate releases and spills of hazardous materials.

d. For the solid waste and hazardous waste management program, the COE will exercise primary Army Staff responsibility for administering, directing, planning, and monitoring the Army's solid waste and hazardous waste management programs, including waste minimization, and will—

(1) Issue regulations, policies, and guidance to MACOMs and the National Guard Bureau (NGB) Army Directorate on managing solid and hazardous wastes to ensure that Army commanders and managers are aware of their responsibilities and with due consideration to the differing legal, regulatory, reporting, and operating procedures for commands located in the continental United States (CONUS) and OCONUS, including—

(a) Source reduction and recycling.

(b) Resource recovery.

(c) Treatment, storage, and disposal.

(2) Ensure Army-wide compliance with State and Federal Resource Conservation and Recovery Act (RCRA) requirements and progress in meeting the Army's waste reduction goals.

(3) Promptly resolve issues of noncompliance with regulatory agencies.

(4) Establish an Army-wide clearinghouse of information on waste management practices in the Army, including waste minimization technology, research, and studies to effectively manage and improve the Army's solid and hazardous waste programs and to ensure progress in reducing wastes.

(5) Actively promote technology transfer with the MACOMs, other military services, Federal agencies and industry to demonstrate, construct, and apply waste management systems that enhance the quality of the environment.

(6) Require DLA to provide cost-effective and reliable waste disposal service for the Army by emphasizing recycling and reuse, encouraging the use of regional waste treatment facilities, and developing standard procedures for accurately identifying, weighing, segregating, transporting, reporting, and offering hazardous wastes to DLA for treatment, storage, or disposal.

(7) Identify, support, and defend requirements to use funds from DERA, pursuant to DOD and Army guidance, to support hazardous waste minimization (HAZMIN) initiatives including conducting studies, procuring equipment, and conducting research and development.

(8) Identify, support, and defend resource requirements in the planning, programming, budgeting, and execution system

(PPBES) process to ensure the Army's programs on solid and hazardous waste management, including disposal; comply with applicable laws and regulations.

e. For the environmental noise abatement program, the COE will—

(1) Conduct research to develop better procedures to assess, monitor, and reduce the impact of military environmental noise.

(2) Conduct research to develop and maintain a noise emissions data repository for use in environmental noise assessments.

(3) Issue basic policy guidance and regulations to control environmental noise produced by military equipment and operations.

(4) Provide technical assistance on noise attenuation techniques for existing structures and on design and siting of new facilities.

f. For the asbestos management program, the COE will—

(1) Recommend environmental protection policy on Army management of asbestos for ASA (IL&E)'s approval.

(2) Coordinate asbestos-related operations and maintenance (O&M) and abatement guidance.

(3) Coordinate activities with TSG to prescribe Army criteria, instructions, and corrective measures for asbestos releases and exposures.

(4) Program and budget resources to execute an effective asbestos management program.

g. Acting on behalf of COE, the ACE will manage the Army's environmental program. The Army Environmental Office (HQDA(ENVR-E)), which is the staff support agency to the ACE, will review and provide recommendations on all submissions and responses directed to the ACE concerning environmental policies, planning, programming, budgeting, and oversight of the Army's environmental programs and related matters. Additionally, the ACE will—

(1) Exercise primary Army Staff responsibility to direct and coordinate environmental programs within the Army.

(2) Recommend actions to enable DA to comply with the intent, purposes, and procedures of Federal legislation relative to environmental quality.

(3) Direct programs and oversee the execution of Army environmental policies. Require MACOMs and ARNG installations, activities, and units to comply with all applicable Federal, State, regional, and local environmental and related safety and occupational health (SOH) laws and regulations pertaining to the protection and conservation of environmental, natural, and cultural resources in the acquisition, construction, operation, and maintenance of pollution abatement equipment and property improvements, and in real property transactions. (For environmental protection OCONUS, see para 1-40.)

(4) Identify, support, and defend resource requirements for environmental projects and program management in the PPBES process and in the development of the program objective memorandum (POM) to ensure compliance with applicable environmental laws and regulations.

(5) Establish policies, procedures, and guidance to ensure compliance with Office of Management and Budget (OMB) Circular A-106, "Reporting Requirements in Connection with the Prevention, Control and Abatement of Environmental Pollution at Existing Federal Facilities" (RCS: DD-P&L(SA) 1383, "Environmental Pollution Prevention, Control and Abatement at DOD Facilities Report"), hereafter referred to as the "A-106 report."

(6) Perform the following under the general staff supervision of the Deputy Assistant Secretary of the Army for Installations and Housing (DASA(I&H)) through the U.S. Army Corps of Engineers (USACE), USAEHSC, and in coordination with HQDA (ENVR-E)—

(a) Provide policy, technical assistance, and oversight for the management of natural and cultural resources and pest management activities.

(b) Maintain surveillance, and report progress of the design and construction of pollution abatement facilities for Army and U.S. Army National Guard (ARNG) installations.

(c) Provide technical and procedural assistance on environmental protection and compliance aspects of Army activities, including real property maintenance activities (RPMA) and construction.

(d) Promote participation of engineer troop units in the Army's environmental programs.

(7) Assist in resolving conflicts concerning the Army's performance of mission and compliance with applicable environmental requirements.

(8) Provide assistance to the Chief of Public Affairs (CPA), Headquarters, Department of the Army (HQDA) to establish a comprehensive public affairs program to support the Army's environmental programs. Coordinate with the USACE Public Affairs Office (PAO) all public affairs activities on environmental matters. Refer to the HQDA Office of Congressional Legislative Liaison (OCLL) all congressional inquiries on environmental matters.

(9) Perform the following under the general staff supervision of ASA(RDA)—

(a) Plan, direct, coordinate, and oversee all Army technology research and technology transfer activities in environmental management and cleanup. Subject areas that should be addressed include: noise; asbestos; radon; industrial and military-unique chemicals; monitoring, management, assessment, and planning methods; and development of technology for source control, treatment, containment, decontamination, and disposal of industrial and installation wastes.

(b) Coordinate the activities of TSG, the U.S. Army Environmental Hygiene Agency (USAEHA), the Army Safety Office, the U.S. Army Toxic and Hazardous Materials Agency (USATHAMA), USACE, and other Army components in carrying out the responsibilities addressed in (a) above.

h. For environmental restoration programs, acting on behalf of the COE, the ACE will exercise primary Army Staff responsibility to manage, oversee, direct, and coordinate installation restoration (IR) and formerly used defense sites (FUDS) program activities, per AR 10-5. This responsibility is performed through the Deputy ACE and AEO. AEO will review all submissions and responses directed to the ACE, the (DASA(ESOH)) and the ASA(IL&E) concerning Defense Environmental Restoration Account (DERA) policies and guidance, project execution, funding, and related matters, including all proposed revisions to the annual environmental restoration workplan (see para 9-6). AEO—

(1) Implements, with the concurrence of DASA(ESOH), the Army's environmental restoration policies, objectives, and goals, and administer the Army's procedures and responsibilities for the IR and FUDS programs.

(2) Develops and disseminates program guidance for field implementation, and propose policy amendments and new policy initiatives to DASA(ESOH).

(3) Serves as the primary source of information on IR and FUDS program activities. Represents the IR and FUDS programs to the Office of the Assistant Secretary of the Army (OASA), OSD, and other agencies.

(4) Serves as the proponent for the identification, programming, and budgeting of resource requirements.

(5) Obtains the concurrence of DASA(ESOH) on the annual environmental restoration workplan, and any subsequent revisions thereto, comprised of the IR and FUDS programs. Identifies and maintains a list of priority projects and recommends to DASA(ESOH) projects for implementation and associated resource allocation among MACOMs and executing organizations.

(6) Reviews proposed legislation, regulations, policies, and directives for impact on the IR and FUDS programs and provides appropriate comment.

(7) Consults and coordinates with other organizations (that is, Federal, State, and local agencies, DOD/Army organizations) on program matters.

(8) Provides assistance to MACOMs in resolving interagency disputes.

(9) Plans, directs, and coordinates DERA-funded technology development efforts under the staff supervision of ASA(RDA).

(10) Submits the Army's information to DASA(ESOH) for the annual DOD report to Congress on Defense Environmental Restoration Program (DERP) activities, and for other information needs.

i. With regard to oil and hazardous substances spill contingency planning, control, and emergency response, the COE, through the ACE, will—

(1) Issue basic Army policies and procedures for implementing the NCP for—

(a) Assisting other agencies in response to spills not due to Army activities.

(b) Preparation and implementation of spill prevention control and countermeasure plans (SPCCPs) (para 8-4) and installation spill contingency plans (ISCPs) (para 8-5).

(2) Provide installations the technical direction and assistance, guidance for design, and engineering procedures to implement SPCCPs and ISCPs.

(3) Assist MACOMs to acquire updated copies of the EPA list of the reportable quantities of hazardous, extremely hazardous, and toxic chemicals.

(4) Provide technical and SOH training in association with all activities concerning spill controls and countermeasures.

(5) Designate primary and alternate members to the regional response team (RRT) in each of the standard Federal regions, as required. Nominations will be provided directly to the chairman of the RRT, based on areas of responsibility and expertise. The RRT member's responsibilities are outlined in the NCP.

j. Under the operational control of the ACE, the Commander, U.S. Army Toxic and Hazardous Materials Agency (Cdr, USATHAMA) will—

(1) In addition to carrying out the responsibilities noted elsewhere in this regulation—

(a) Coordinate with AEO all written responses to requests from DOD, DA, or the ACE.

(b) Act as a technical support agency to AEO in collecting, analyzing, and reviewing Army data on environmental compliance (that is, notification of violations (NOVs) and spills).

(c) Develop a management plan and directory of Army training courses in environmental matters, as well as in the related SOH compliance that is required by environmental laws and regulations. To be addressed are courses for civilian and military personnel to implement the Army's environmental programs, including environmental coordinators, environmental project managers, public affairs specialists, and hazardous materials handlers. The directory will be issued periodically throughout the Army. The plan will provide a process for reviewing the curriculums of Army providers of such training to recommend measures to update courses and eliminate, as much as possible, inconsistencies and unnecessary duplication among such courses. To prepare the plan and directory, USATHAMA will coordinate and consult with AEO and USAEHA, as well as all providers of training in environmental matters and related SOH compliance.

(d) On environmental matters, coordinate all public affairs activities with the USACE PAO, and refer to HQDA OCLL all congressional requests for information.

(2) For the environmental restoration program—

(a) Execute the installation restoration program according to DA policy and the guidance, planning, programming, and budgeting decisions of the ACE, as well as the procedures developed under (d) below.

(b) Accomplish in a timely manner those IRP projects for which USATHAMA is the executing organization within the procedures and funding priorities established by the ACE and per the procedures developed under (d) below.

(c) Ensure that all IRP projects being executed by USATHAMA are carried out per the requirements of this chapter and chapters 9 and 12.

(d) Develop procedures and field guidance, in coordination with USACE, (CEMP), and HQDA (ENVR-E) and for the approval of the ACE, for the purpose of conducting environmental restoration program activities. These procedures will be comparable to and consistent with EPA requirements. The activities to be

addressed include preliminary assessment and site inspection; remedial investigations and feasibility studies; removal and remedial actions; quality assurance/quality control for sampling, analysis, and reporting; decision document preparation; notification/report to regulatory agencies and coordination of response planning; information/document review and release; community relations; valuation of sources for priority-setting, and source tracking and counting; NEPA compliance; technical support; health risk assessments; and other Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requirements.

(e) Propose a draft annual restoration IRP work plan to HQDA (ENVR-E) (para 9-6).

(f) Incorporate the IRP and the FUDS work plan into the Army environmental work plan (para 9-6).

(g) Provide consultation as requested for those IRP projects conducted by other executing organizations. Ensure that all installation IR activities are responsive to the IC's needs and are fully coordinated with and approved by the IC.

(h) Establish a database that identifies all sources of pollution that must be addressed in the IRP, including the main contaminants per source, current project status, national priority list (NPL)/proposed NPL or other priority, execution agency, and milestones, plus resource requirements and proposed obligation dates for sub-projects associated with these sources.

(i) Propose the necessary institutional arrangements to receive and collate information from the FUDS database of USACE, to collate the FUDS information into the USATHAMA response, as required by the ACE. Propose the data-reporting procedures for USACE to follow in providing such reports to USATHAMA.

(j) Collect, consolidate, maintain, and assure quality of program data on IRP activities, including RMA, for inclusion in the draft annual DOD report to Congress. This will be done both for installations not included on the NPL, and for those included or proposed for inclusion on the NPL. The required data include program execution information such as number of sources, contaminants addressed per source, status of response actions, relative priority of each of the installation's projects, and estimated clean-up costs. The data will be available to HQDA (ENVR-E), for inclusion in the annual DOD report to Congress.

(k) Identify, develop, and demonstrate innovative and cost-effective IRP technologies; serve as the Army representative on the DOD-IRTCC. The USATHAMA representative will serve as the chairperson of the IRTCC.

(l) Assist installations in coordinating with regulatory agencies on IRP matters through the ACE, and provide information to installations for notifying and reporting to regulatory agencies and the public.

(m) Assist installations in the establishment of, and provide a technical representative to serve on each TRC (para 9-10).

(n) Coordinate with TSG for the performance of health risk assessments.

(o) Provide technical support, as needed by USACE (CEMP), for development of response plans for investigating and remediating sources.

(p) Execute IRP activities per all applicable Federal, State, regional, and local requirements, and Army policies, guidance, protocols, and SOPs concerning environmental and related SOH matters.

(q) Ensure provision of SOH training and periodic health monitoring, per paragraph 1-16h(1), and per worksite SOH requirements, particularly OSHA, 29 CFR 1910, 1917, and 1926.

(r) Conduct public participation and community relations activities concerning IRP projects in coordination with the HQDA ACE PAO and per paragraph 9-11. Refer to the HQDA CLL all congressional inquiries.

(s) Coordinate with and provide legal support to USACE counsel on matters relevant to executing IRP activities.

1-15. The Judge Advocate General (TJAG)

a. TJAG is responsible for providing overall legal advice to DA including, under the oversight of OGC, the Office of the Secretary

of the Army, on all environmental matters, including SOH and radiation matters, that affect the Army, except those matters pertaining to non-military civil works activities. Within the Office of The Judge Advocate General, the Chief, Environmental Law Division, has primary responsibility for this function and for those responsibilities identified in b through f below. Specifically, TJAG will—

(1) Advocate and promote compliance by Army entities with all applicable Federal, State, regional, and local requirements, and Army policies, guidance, protocols, and SOPs concerning environmental and related SOH matters.

(2) Provide advice and guidance to DA officials and commanders of MACOMs and installations on their legal responsibilities for complying with all applicable environmental requirements, including—

(a) Providing advice on interpreting environmental laws and regulations.

(b) Apprising MACOM commanders, State adjutants general, and installation, activity, and unit commanders of their legal responsibilities under this regulation.

(c) Assisting negotiation and review of environmental agreements (para 12-6).

(3) In prior consultation with OGC, coordinate matters pertaining to environmental law with OSD, other military services, and other federal agencies.

(4) Monitor State and Federal environmental legislative and regulatory developments affecting Army activities.

(5) Advise DA officials as to the appropriateness of any taxes, penalties, fees, fines, sanctions, or compliance orders arising from State or Federal environmental requirements or enforcement activities.

b. In accordance with the policies and procedures of AR 27-40, TJAG will represent DA and its instrumentalities before courts, administrative tribunals, and regulatory bodies, and maintain liaison with the Department of Justice (DOJ) and other governmental departments and agencies regarding environmental litigation. Specifically, TJAG will—

(1) In coordination with OGC and DOJ, serve as agency counsel in environmental litigation.

(2) Serve as agency counsel for DA, MACOM, and installation officials at local, State, and Federal agency hearings concerning alleged violations of environmental laws or regulations pertaining to Army activities.

c. For hazardous materials management program, TJAG will, as requested, provide guidance and legal opinions on interpreting Federal, State, local, and host-nation laws and regulations governing hazardous materials for Army facilities.

d. For solid waste and hazardous waste management program, TJAG will—

(1) Provide DA with legal opinions on and interpretations of Federal and State solid and hazardous waste management laws and regulations.

(2) Review all draft compliance agreements with Federal and State regulatory officials on solid waste and hazardous waste management prior to signature by the IC.

e. For the environmental noise abatement program, TJAG will—

(1) Review ICUZ studies that have significant legal ramifications.

(2) Assist in determining the applicable Federal, State, and local noise standards that govern each Army noise environment.

f. For the environmental restoration program, TJAG, in addition to carrying out the provisions of paragraph 12-6, will—

(1) Provide legal advice and support to DA on DERP matters.

(2) Provide assistance to MACOMs and installations in negotiating interagency agreements for CERCLA actions.

1-16. The Surgeon General (TSG)

a. Overall, TSG will—

(1) Provide policy and guidance to Army Staff, MACOMs, executing agencies (for example, USACE (CEMP, USAEHSC, USATHAMA), and installations) and oversee compliance with

worksite SOH requirements, particularly OSHA, 29 CFR 1910, 1917, and 1926.

(2) Establish the requirements for a program to provide periodic health hazard training and health monitoring for civilian and military Army personnel, including project managers, employed or otherwise carrying out official duties on worksites where hazardous and toxic materials, substances, and wastes are generated, handled, stored, treated, and disposed.

(3) Provide policy on the health aspects of pollution resulting from Army activities and operations, and disseminate guidance, including—

(a) Educational materials, in coordination with CPA and EPA, on the environmental health aspects of pollution abatement programs, environmental monitoring, and the generation, handling, storage, treatment, and disposal of hazardous and toxic materials, substances, and wastes.

(b) Recommendations to mitigate or control adverse impacts and to protect individuals from hazardous exposures.

(c) Health risk assessments, as requested, in connection with the Army's programs for hazardous waste management (chap 6) and as required for environmental restoration (para 9-4b(1)(a)).

(4) Develop toxicological profiles concerning military-unique chemicals and unregulated hazardous substances that are commonly found on military installations. Also, establish environmental standards for chemical agents and weapons demilitarization.

(5) Conduct technical reviews and develop data through field investigations concerning the nature and extent of the potential environmental health and SOH effects of pollution resulting from Army activities.

(6) Approve health risk assessments (see para 1-16h(6)). Also, provide, as requested, consultation to ICs and staff officers on the environmental health and related SOH aspects of Army programs and operations, and technical assistance in preparing applications for operating permits for regulated pollution abatement facilities.

(7) Identify pollution-related health effects topics that require research and development.

(8) Provide guidance on the health implications of instructions, recommendations, and policies emanating from agencies outside DA.

b. For the research and development program, TSG will plan, program, and execute that portion of the EQT research program that relates to—

(1) Determining the environmental and human health effects of Army hazardous materials and wastes used in current and past industrial operations.

(2) Evaluating appropriate materials in the current and planned research and development (R&D) and acquisition cycle. In this capacity, TSG will—

(a) Assess environmental health hazards of hazardous materials and wastes used and produced by the Army in order to conduct research on, and provide health criteria for, standards development, effective waste monitoring, and cleanup, control, and disposal systems.

(b) Develop field analytical techniques, procedures, and protocols for performing installation surveys and investigations to maintain and protect the health of Army personnel.

(c) Evaluate the Army's long range plans for development and acquisition of weapons systems, munitions, training devices, to determine requirements for conducting fate and effects studies and toxicity studies on chemical compounds of interest.

(d) Designate an EQT coordinator to be responsible for ensuring that all appropriate mission areas of TSG are fully addressed and integrated into the EQT long range science and technology (LRS&T) plan prepared by the Directorate of Research and Development (DRD), USACE.

c. For the water resources management program, TSG will—

(1) Monitor health and welfare aspects of water and wastewater control criteria and standards issued by Federal and State agencies.

(2) Assist Army installations and facilities in setting up and conducting drinking water surveillance programs (DWSPs).

(3) Accumulate, evaluate, and publish data on water pollution conditions that may adversely affect human health and the environment.

(4) Conduct field investigations and special studies to determine the effectiveness of water and wastewater treatment; recommend corrective measures when necessary.

(5) Provide technical consultation and evaluations to installation and activity commanders and State adjutants general on health, welfare, and environmental aspects of water and wastewater management programs and activities.

(6) Coordinate with COE to develop water and wastewater treatment requirements, procedures, surveys, and studies.

(7) Develop water quality standards/criteria for drinking water and for recycle/reuse of wastewater for nonpotable purposes for field environments and military-unique situations where EPA standards/criteria are nonexistent, inappropriate, or not applicable.

(8) Provide assistance to installation and activity commanders and State adjutants general in preparing permit applications, negotiations, and proceedings associated with water permits. Review of and comment on draft and final national pollutant discharge elimination system (NPDES) permits are included.

(9) Maintain a record of all NPDES permits issued to Army installations and facilities.

(10) Assist in the planning and review of construction projects for—

(a) Wastewater treatment facilities.

(b) Systems to control surface runoff and non-point sources of water pollution.

(c) Drinking water treatment facilities.

(d) Swimming pools and other recreational waters.

(e) Water quality monitoring systems.

d. For the hazardous materials management program, TSG will—

(1) Establish public health criteria and standards for Army use.

(2) Monitor environmental and public health effects and aspects of the management of hazardous materials.

(3) Recommend standards for safe storage, use, discharge, ultimate disposal, of hazardous materials; and, in the absence of environmental and public health effects criteria, develop, compile, and evaluate environmental toxicology data.

(4) Provide technical instructions and guidance for Army pest management programs.

(a) Disease vector surveillance and control.

(b) Pest resistance to control efforts.

(c) Pesticide monitoring.

(d) The safe use and disposition of pesticides, which includes training of pesticide applicators.

e. For the solid waste and hazardous waste management program, TSG will—

(1) Monitor the public health and environmental aspects of the Army's waste management programs. In this capacity, TSG will accumulate, evaluate, and disseminate data on waste program practices that may adversely affect the public health and welfare of persons, animals, and the environment.

(2) Advise COE on the health aspects of managing solid wastes, hazardous wastes, and medical wastes.

(3) Provide technical guidance and recommend procedures for treating, storing, and disposing of solid, hazardous, and medical waste, including batteries, to—

(a) Army Staff offices.

(b) MACOMs.

(c) ICs (including State adjutants general).

(4) Maintain liaison with DOD staff elements, MACOMs and other Army activities, EPA, and other Federal and State agencies that influence the solid waste and hazardous waste management program.

(5) Develop procedures to ensure that waste disposal installations for USAEHA Technical Guide 126—

(a) Are updated annually.

(b) Include all hazardous materials identified by DCSLOG in the Army master data file (AMDF) (para 1-13a(12)).

(c) Are provided to installations.

(6) Ensure the requirements of the Medical Waste Tracking Act (MWTa) of 1988 and implementing regulations promulgated by EPA are followed at all Army medical facilities located within the jurisdiction of a demonstration State.

(7) Establish requirements for safety and occupational health aspects of solid and hazardous waste training to support COE in developing an environmental training plan (see para 1-14j(1)(c)).

f. For the environmental noise abatement program, TSG will—

(1) Research the effects of military-unique environmental noise on the health and welfare of humans and animals.

(2) Issue health and medical policy guidance.

(3) Coordinate in developing noise abatement criteria, standards, and corrective measures with—

(a) The COE

(b) Army Safety Office, HQDA

(4) Monitor health and welfare aspects of environmental noise within the Army and ensure the required degree of noise control is maintained.

g. For oil and hazardous substances spill contingency planning, control, and emergency response, TSG will provide policy and guidance on the health aspects of the handling of oil and hazardous substances.

h. For the environmental restoration program, TSG will—

(1) Provide guidance to, and oversee, the Army Staff, MACOMs, and executing organizations to promote compliance with the worksite SOH requirements, particularly for training and periodic health monitoring of all personnel, including project managers, employed or otherwise carrying out official duties on environmental restoration project sites.

(2) Develop and prepare chemical exposure and drinking water criteria for environmental contaminants (in particular, military-unique compounds) for ASA(IL&E) promulgation. Proposals affecting DERP policy should be coordinated with HQDA (ENVR-E).

(3) Conduct toxicity studies and develop health advisories and standards, criteria, and protocols for chemical exposure and drinking water.

(4) Serve as the Army's liaison with EPA and the Agency of Toxic Substances and Disease Registry (ATSDR) of the Department of the Health and Human Services concerning health-related issues in the IR and FUDS programs. Per 10 USC 2704, develop and provide to the ATSDR toxicological profiles of the unregulated hazardous substances most commonly found at Army facilities.

(5) Evaluate and provide consultation on IRP and FUDS program proposals affecting human health, including removal actions that meet the definition of an interim remedial action (para 9-7f(4)). Emphasis will be placed on the installations that are included or proposed for inclusion on the NPL.

(6) Exercise approval authority over all health risk assessments. Executing organizations should refer to TM MED 578 for guidance on preparing health risk assessments and obtaining OTSG support.

(7) Provide assistance in development of applicable or relevant and appropriate requirements (ARARs) for IR and FUDS program activities, and develop or review contaminant removal criteria for remedial actions.

i. For the asbestos management program, TSG will—

(1) Establish asbestos-related health criteria and standards.

(2) Provide technical guidance and instruction relative to asbestos exposure.

j. For the Army radon reduction program, the Army Medical Department (AMEDD) will—

(1) Assess the health hazards of radon exposure.

(2) Revise, if warranted by acceptable scientific evidence, the current exposure level criteria used for remedial action.

(3) Oversee the radon assessment phase of this program.

-17. The Director, Army Safety Office

a. The Director will exercise primary Army Staff responsibility for overall supervision of the activities of the Army Safety Program, per AR 385-10.

b. For the hazardous materials management program, The Director will provide assistance and guidance on the safety aspects of hazardous materials and hazardous and toxic substances to include their storage, use, handling, and ultimate disposition.

c. For the solid waste and hazardous waste management program, The Director will provide assistance and guidance to COE and DCSLOG on the safety aspects of generating, treating, storing, disposing and transporting hazardous waste, including personnel training required under 40 CFR section 264.16.

d. For the asbestos management program, The Director will provide assistance and guidance on the safety aspects of asbestos management.

1-18. The Commander in Chief (CINC), Forces Command (FORSCOM)

CINC, FORSCOM, will, upon request, provide personnel and resources to support the NRT or RRT in response to a spill emergency. The request should be confirmed in writing by the U.S. Environment Protection Agency (EPA) or USCG. Support will be provided per AR 500-60 and the NCP, on a reimbursable basis.

1-19. The Commanding General, U.S. Army Materiel Command (CG, AMC)

a. For the research and development program, the CG, AMC under the general staff supervision of the ASA(RDA) will—

(1) Develop, test, and acquire Army materiel, and ensure that all new materiel minimizes life-cycle environmental impacts without significantly degrading mission effectiveness.

(2) Designate an EQT coordinator responsible for ensuring that all appropriate environmental mission area requirements of AMC to develop, acquire, supply and maintain Army materiel are addressed in the hazardous waste control and minimization and installation restoration portions of the EQT LRS&T plan prepared by COE DRD. The EQT coordinator will—

(a) Serve as proponent for EQT research that supports command mission functions.

(b) Take part in scheduled program reviews.

(c) Review and provide input to the EQT LRS&T plan.

(d) Help prepare mission area deficiency statements (MADS).

b. For the air pollution abatement program, the CG, AMC will—

(1) Require that Army materiel equipped with internal combustion engines meets applicable regulations.

(2) Ensure that materiel is manufactured, shipped, operated, maintained, and finally disposed of according to applicable regulations.

(3) Provide, in technical publications, information and instructions to comply with regulations on—

(a) Air pollution controls for engine-driven equipment.

(b) Maintenance and monitoring procedures.

c. For the hazardous materials management program, the CG, AMC will—

(1) Establish training programs for personnel who—

(a) Produce, test, and store explosives, nuclear materials, and chemical munitions.

(b) Handle radioactive materials and hazardous materials, or mixtures of these materials with solid and hazardous wastes.

(2) Ensure compliance with Federal Law 50 USC 1511-1521, other applicable Federal and State regulations, and Army policies when disposing of chemical agents and munitions.

(3) Procure materiel for Army use, as required by HQDA and DOD, that will cause the least public health and environmental hazards during its—

(a) Production.

(b) Use.

(c) Storage.

(d) Transportation.

(e) Ultimate disposal.

(4) Procure materials that allow production of materiel that meets military specifications and requirements while minimizing health and environmental hazards.

(5) Revise depot maintenance work requirements (DMWR) to allow use of alternative procedures and materials that minimize health and environmental hazards.

(6) Use materiel storage procedures and disposal methods that minimize health and environmental hazards.

(7) Conduct research and technical investigations to support efforts for hazardous and toxic materials pollution abatement at industrial facilities operated by AMC. Develop alternative, less polluting industrial processes; industrial waste recycling systems; treatment processes; industrial waste recycling systems; treatment processes and design criteria; and safe and profitable disposal methods.

d. For the environmental noise abatement program, the CG, AMC, will—

(1) Procure materiel that complies with appropriate Federal or DA noise emission standards.

(2) Develop retrofit technologies for existing vehicles and materiel to reduce noise emissions to current Federal standards.

(3) Assess the noise impact of new equipment at all stages in the development cycle. This will be done by the program, project, or product manager responsible for developing or modifying materiel, who will fund environmental testing on all such materiel to determine the basic noise signature data during testing. Execution of the measurements will normally be done by COE as specified in para 1-14e. These measurements will be made per the standards and guidance documents listed in paragraph 7-4.

(4) Pursue a research, development, test, and evaluation (RDTE) program to—

(a) Abate and control noise emissions from military equipment.

(b) Abate and control noise emissions during training by special devices used only during training.

(c) Develop simulation and sub-caliber devices to be used during training to abate the noise emissions of military training.

e. For the environmental restoration program, through the PM, RMA, the CG, AMC, will—

(1) Carry out the environmental restoration of RMA per the guidance, planning, programming, priorities, and budget decisions of the ACE, and with all applicable Federal, State, regional and local requirements, and Army guidelines, protocols, and SOPs.

(2) Coordinate with AEO all proposed changes to the annual RMA work plan, and provide the draft annual work plan to USATHAMA for inclusion in the IRP portion of the environmental restoration work plan (para 9-6).

(3) Coordinate with AMC PAO all proposed public affairs activities relating to IRP projects at RMA. Refer to the HQDA OCLL all congressional inquiries.

(4) Ensure provision of SOH training and periodic health monitoring and worksite SOH requirements, particularly OSHA, 29 CFR 1910, 1917, and 1926.

f. For the asbestos management program, procure materiel containing no asbestos (unless asbestos-free substitute materials do not exist) during—

(1) Research and development.

(2) Production.

(3) Testing.

(4) Storage.

(5) Use.

(6) Overhaul.

(7) Ultimate disposition.

1-20. The CG, U.S. Army Training and Doctrine Command (TRADOC)

The CG, TRADOC will—

a. Develop requirements for devices to be used during training to abate and control noise emissions from military equipment.

b. Develop requirements for simulation and sub-caliber devices to be used during training to abate the noise emissions of military training.

1-21. The CG, U.S. Army Corps of Engineers (CG, USACE)

The CG, USACE, will—

a. For the research and development (R&D) program, through DRD, plan, program, budget, and execute that portion of the EQT research program that provides technology to keep Army industrial facilities and training and readiness installations in legal compliance with all environmental laws and regulations. CG, USACE, will also conduct a research program that provides the Army with a technology base for controlling and mitigating noise at training and readiness installations and for restoring physically damaged training lands. This research is conducted in the following functional areas—

(1) *Installation environmental compliance research.* This work consists of—

(a) *IR research.* IR research provides technology to clean up environmental and human health hazards at active installations contaminated with wastes generated during past industrial activities.

(b) *Hazardous waste control and HAZMIN research.* To avoid future health and environmental problems associated with hazardous wastes, the Army must reduce generation of hazardous, toxic, and other wastes from current and future activities. This research provides technology to minimize, reuse, treat, and dispose of hazardous materials in order to minimize generation of hazardous wastes. In addition, this technology addresses methods for substituting nonhazardous materials for hazardous materials, as well as processing changes and selected waste recovery/recycling technology.

(2) *Installation environmental management.* This functional area consists of—

(a) *Noise mitigation research.* In order to remain in compliance with State and local noise laws and regulations, and to avoid mandated closings of training and firing ranges due to violations, research into noise mitigation and control must be provided. The technology in this functional area provides methods for modeling noise propagation and mitigation and control techniques.

(b) *Land restoration research.* A technology base must be maintained in order to manage training lands and restore those physically damaged from overuse. The technology in this functional area provides methods, techniques, and procedures for managing and restoring damaged training lands.

b. For the Army radon reduction program—

(1) Establish a centrally managed contract for radon detectors and analytical services.

(2) Develop construction criteria for the mitigation of radon in various types of construction.

(3) Develop training strategies for installation personnel who will be deploying radon detectors.

(4) Monitor installations' progress in measuring and mitigating radon levels in buildings.

The CG, USACE, through the Director of Military Programs, will—

(1) In the installation restoration program (IRP), per AR 10-69, execute IRP actions, as described in records of decision (ROD) or other appropriate decision documents, as well as other environmental restoration tasks assigned by the ACE. These activities will be carried out per environmental restoration procedures developed under paragraph 1-14j(2)(d)) and will be noted in the annual Army environmental work plan (para 9-6). In this capacity, USACE (CEMP) will—

(a) Develop, in coordination with USATHAMA, technical guidance for USACE FOAs carrying out IRP activities, and perform executive direction and oversight to ensure that FOAs operate within the program policies, procedures, and technical guidance.

(b) Design and construct the final or interim remedial actions and meet the requirements for the development and documentation of all such actions.

(c) Develop, in coordination with USATHAMA, long-term O&M plans for remedial action projects that have been initiated including planned land use after remediation and the life-cycle cost for operations and maintenance of operating units and long-term monitoring (OM&M).

(d) Ensure that IRP activities conducted by CEMP at an installation, and the IRP and FUDS activities at an installation with

a related FUDS project (para 9-5c) are responsive to the IC's needs and are fully coordinated with and approved by the IC and the HQ USACE PAO.

(e) Provide a representative of USACE to serve on the TRCs of IRP, and IRP with related FUDS, projects where CEMP carries out environmental restoration activities (para 9-10).

(f) Execute IRP projects per all applicable Federal, State, regional, and local requirements, and Army policies, guidance, protocols, and standing operating procedures (SOPs) concerning environmental and related SOH matters.

(g) Conduct public participation and community relations activities concerning IRP projects in coordination with the HQ USACE PAO and per para 9-11. Refer all congressional inquiries to HQDA OCCL.

(h) Provide data to ICs for reporting to regulatory agencies, and coordinate with regulatory agencies as requested by the IC.

(i) Ensure provision of SOH training and periodic health monitoring (paras 1-16 and 1-17).

(j) Develop site-specific safety and health plans (SSHPs) and criteria for incorporation into remedial design and construction documents. Conduct SOH oversight of accident prevention plans, on-site implementation, and SSHPs submitted by contractors.

(2) Identify and, in coordination with USATHAMA, develop and demonstrate innovative and cost-effective IRP technologies. Participate in the IRTCC. In the FUDS program, USACE (CEMP) will execute the FUDS program activities per DA policy; per the guidance and priorities, planning, programming, and budgeting decisions of the ACE; per the procedures developed under paragraph 1-14(2)(d); and per all applicable Federal, State, regional, and local requirements; and all Army policies, guidance, protocols, and SOPs concerning environmental and related SOH matters. (See para 9-11 for public participation and community relations activities.) CEMP will ensure that all FUDS projects are carried out per the requirements of this chapter and chapters 9 and 12, and further will—

(a) Develop, in coordination with USATHAMA, technical guidance to USACE FOAs carrying out FUDS activities, and perform executive direction and oversight to ensure that FOAs operate within the program policies and technical guidance.

(b) Propose a draft annual FUDS work plan to HQDA, (ENVR-E) WASH DC 20310-2600 (para 9-6).

(c) Provide an approved annual FUDS work plan to USATHAMA for inclusion in the draft annual environmental restoration work plan (para 9-6).

(d) Collect, consolidate, maintain, and assure quality of program data on FUDS activities, and provide data in a timely manner to USATHAMA for inclusion in the draft annual report to Congress, and for other reports, as required.

(e) Establish an administrative record (para 9-9b(4)) if the FUDS property is included or proposed for inclusion on the NPL.

(f) Ensure provision of SOH training and periodic health monitoring, per para 1-16a(1) and worksite SOH requirements, particularly the Occupational Safety and Health Act (OSHA), 29 CFR 1910, 1917, and 1926.

(g) Conduct public participation and community relations activities concerning FUDS projects in coordination with the HQ USACE PAO and per para 9-11. Refer all congressional inquiries to HQDA OCCL.

(3) Provide to the program manager (PM), RMA, the design and construction support required by the memorandum of understanding between PM, RMA, and USACE District, Omaha.

(4) Carry out the activities noted in para 9-5c concerning FUDS projects on a former Army-controlled property that is related to an installation included in the IRP.

-22. MACOM commanders (for ARNG, State adjutants general)

a. (For the purposes of this regulation, the Superintendent, USMA is a MACOM commander.) The general functional responsibilities of the MACOMs in conducting specific R&D programs are in AR 70-1. Overall, MACOM commanders and State adjutants general will—

(1) Establish organizational structures to implement the Army's environmental program, and provide sufficient support by—

(a) Public affairs, legal, and environmental review personnel.

(b) Timely reporting.

(c) Programming and budgeting assistance to installation, activity, and unit commanders.

(2) Monitor and control the environmental projects and activities of the subordinate commands, and the installations and activities under their jurisdiction, and report to HQDA (ENVR-E) WASH DC 20310-2600 as requested. Ensure that each installation, except satellite installations, establishes an environmental quality control committee (EQCC) (para 12-13).

(3) Per the policies and programs of the CPA and this regulation, develop and ensure subordinate-level implementation of a public affairs program to support the Army's environmental protection and enhancement activities.

(4) Take part in identifying and ranking in priority the environmental quality requirements for R&D.

(5) Ensure that installation and activity commanders provide sufficient environmental staffing to implement and comply with this regulation and all Federal, State, regional, and local environmental requirements.

(6) Coordinate with HQDA CPA all public affairs activities on environmental matters. Refer all congressional inquiries on environmental matters to HQDA OCCL.

b. For the research and development program, MACOM commanders and State adjutants general will—

(1) Designate EQT coordinators.

(2) Review and provide input to the EQT LRS&T plan.

(3) Take part in scheduled program reviews.

(4) Help prepare MADS.

c. For the water resources management program, MACOM commanders and State adjutants general will—

(1) Identify and evaluate all sources of water pollution; take proper action to eliminate or reduce them to acceptable levels.

(2) Program and budget funding and personnel resources for all water pollution control projects required to ensure timely compliance with all applicable standards.

(3) Provide assistance to ICs to set up water quality monitoring programs.

(4) Monitor construction plans, construction activities, and natural resources conservation activities that are designed to control water pollution.

(5) Provide input and assistance to master planners to ensure that future development plans address drinking water and wastewater issues.

(6) Promote water conservation measures and programs for recycle/reuse of wastewater for nonpotable purposes.

(7) Program and budget for resources to permit installations to provide drinking water that meets the quality requirements established by applicable Federal, State, and local regulations.

(8) Set up and maintain programs to make all water pollution sources comply with established criteria within timeframes set by Federal, State, and local agencies.

d. For the hazardous materials management program, MACOM commanders and State adjutants general will—

(1) Establish a program for hazardous materials management to protect worker SOH, public health, and environment.

(2) Program and budget resources.

(a) For effective hazardous materials management and pest management programs, including training required by applicable Federal and State laws and regulations for certification of pesticide applicators and quality assurance evaluators for pest management contracts.

(b) For the routine review of installation programs to ensure compliance with AR 420-76.

(3) Maintain a dialogue with Federal and State regulatory agencies to ensure compliance with applicable Federal and State laws and regulations governing hazardous materials and pest management.

e. For the solid waste and hazardous waste management program, MACOM commanders and State adjutants general will—

(1) Perform the following actions related to compliance—
 (a) Direct a comprehensive effort to ensure that ICs are fully aware of and comply with solid and hazardous waste management requirements of Federal, State, and local laws and regulations.

(b) Ensure installations and tenants conform with local, State, and Federal requirements for solid and hazardous waste management, including recordkeeping and reporting requirements.

(c) Inspect and periodically review the operation of hazardous and solid waste collection and disposal activities within their commands.

(d) Ensure that installations establish and maintain waste management programs, including resource recovery, recycling, and waste disposal per the standards in this regulation (unless specific exemptions from ENVR-EH have been obtained) and the requirements of local, State, and Federal laws and regulations.

(e) Ensure that program and budget requests identify resource requirements, including funds to achieve and maintain compliance with State and Federal solid and hazardous waste management requirements.

(f) Identify RCRA compliance requirements in the A-106 report, in developing the command operating budget (COB).

(g) Ensure timely submission to HQDA (ENVR-E) WASH DC 20310-2600 of the annual hazardous waste report using EPA Form 8700-13A/B (Hazardous Waste Report/Waste Minimization Report) (para 6-6c(2)(c)). Copies of EPA Form 8700-13A/B can be obtained from your EPA regional office.

(2) Perform the following actions related to HAZMIN:

(a) Designate a principal point of contact to expedite staff actions on waste minimization issues and to provide oversight for the program.

(b) Develop a waste minimization plan, with a 5-year outlook, that is consistent with the requirements of this regulation and Army policy.

(c) Provide technical assistance and oversight for design and implementation of installation waste minimization plans and programs.

(d) Program, budget, and distribute funds for waste disposal and minimization activities.

(e) Establish commandwide hazardous waste reduction goals that discourage the use of land disposal methods and monitor progress towards goal achievement.

(f) Require economic evaluations of HAZMIN alternatives, per the requirements of DOD Instruction (DODI) 7041.3 or Army equivalent.

(g) Ensure segregation of hazardous wastes and solid wastes, reduction in the use of petroleum, oils, and lubricants (POLs) and associated waste products, and encourage on-site treatment and recycling over off-site methods where economically practicable.

(h) Conduct audits to identify opportunities for HAZMIN.

f. For the environmental noise abatement program, MACOM commanders and State adjutants general will—

(1) Program and budget for resources required to minimize noise impacts and conduct ICUZ studies.

(2) Require each installation/facility to develop an ICUZ study per the guidance in chapter 7.

g. For oil and hazardous substances spill contingency planning, control, and emergency response, MACOM commanders and State adjutants general will—

(1) Issue instructions for preparing and reviewing the SPCCP and the ISCP (see paras 8-4 and 8-5).

(2) Forward to ICs updated copies of the EPA lists of the reportable quantities of hazardous, extremely hazardous, and toxic chemicals.

(3) Program and budget for personnel, materials, SOH training, periodic health monitoring, and equipment required for the prevention, countermeasure, control of, and the emergency response to spills of oil and hazardous substances.

(4) Ensure that ICs prepare adequate emergency response plans; provide appropriate equipment, SOH training, and periodic health monitoring to their emergency response personnel; and participate in activities of the local emergency planning committee (LEPC).

(5) Report by telephone to the Army operations center (AOC) and USATHAMA immediately upon receiving notification from an IC reporting a spill (see table 8-1 for telephone numbers).

h. For the environmental restoration program, MACOM commanders and State adjutants general will—

(1) Oversee IRP projects, and, if so requested by the ACE, participate with the USACE district in the coordination concerning any related FUDS projects on former Army properties, near installations, activities, or units within the MACOM (see para 9-5c). The MACOM commander, in overseeing IRP activity will—

(a) Ensure that necessary response actions are completed within the shortest time possible, within resource constraints.

(b) Track source status and IR and any related FUDS (para 9-5c) progress to assure that IRP goals and response milestones are met.

(c) Ensure consistent and frequent coordination with USATHAMA, the USACE district, and regulatory agencies.

(d) Ensure that IRP activities are performed per all applicable Federal, State, regional, and local requirements, and Army policies, guidance, protocols, and SOPs concerning environmental and related SOH matters, and this chapter and chapters 9 and 12.

(2) Serve as a focal point for identifying IRP financial requirements and provide USATHAMA a prioritized listing of such requirements for inclusion in the IRP portion of the annual environmental restoration work plan (para 9-6). The format for the submission will be provided by USATHAMA. Project financial requirements must also be identified in the A-106 report; see para 12-11. Funding requirements would include: OM&M; technical training; SOH training and health monitoring for IRP personnel; and staffing for legal, public affairs, and environmental review to provide sufficient support to the commander of each installation that is included in the IR program.

(3) Manage environmental restoration account funds distributed within the command and report project execution and funds obligation information to Commander, USATHAMA, ATTN: CETHA-EC-S, Aberdeen Proving Grounds, MD 21010-5401.

(4) Submit to HQDA (ENVR-E) WASH DC 20310-2600 reports of major IRP developments, including the discovery of post migration of contamination and other environmental (see paras 1-25a(9), 9-8, and 12-7, and chapter 8); development of response plans; status of negotiations on interagency agreements (see para 12-6) and records of decision (provide drafts); proposals for real property transactions at installations in the IRP (see para 12-5); and environmental reports (see para 12-11; provide copies).

(5) Report to Cdr, USATHAMA, ATTN: CETHA-EC, Aberdeen Proving Ground MD 21010-5401 in relation to installations in the IRP.

(a) Incidents of actual or imminent noncompliance with applicable requirements including worksite SOH rules (see paras 1-25a(9), 9-8, and 12-7, and chapter 8; provide copies of violation notices); status of negotiations on interagency agreements (see para 12-6, provide copies of drafts).

(6) Coordinate with HQDA CPA all public affairs activities concerning environmental restoration projects, including RMA projects. Refer all congressional inquiries to HQDA OCLL.

(7) Ensure provision of SOH training and periodic health monitoring per paras 1-16 and 1-17.

f. For the asbestos management program, MACOM commanders and State adjutants general will—

(1) Establish programs to control asbestos and to protect human health and the environment.

(2) Program and budget for resources required for asbestos management. Identify requirements in the A-106 report.

j. For the Army radon reduction program,
 (1) Ensure that their installations initiate radon measurement and mitigation programs per this regulation.

(2) At the end of each FY, report to USAF (CEHSC-FU-S) their installations' progress in the assessment, mitigation of radon, with a copy furnished to HQDA

1-23. The CG, U.S. Army Health Services Command (HSC)

a. CG, HSC, will—

a. For the air pollution abatement program—

(1) Assist TSG in fulfilling TSG's responsibilities for the health and welfare aspects of the air pollution abatement program (see para 1-16).

(2) Provide personnel to conduct field investigations and special air pollution studies as specified in paragraph 4-3a.

b. For the hazardous materials management program—

(1) Conduct training activities to ensure that course attendees are proficient in the application, handling, storage, use, and disposal of pesticides. The course content will be based on criteria established by—

(a) The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

(b) The DOD plan for certifying pesticide applicators.

(c) Federal regulations, guidelines, and judicial decisions.

(d) COE.

(2) Provide personnel to—

(a) Conduct field investigations and special studies on hazardous materials.

(b) Recommend measures to protect public health and environment and to comply with applicable regulations.

(c) Develop guidance for handling and disposal of hazardous materials.

(3) Conduct the Army pesticide monitoring program per AR 40-5. This program complements the national pesticide monitoring program.

(4) Provide Army safety, health, and transportation offices with essential information on the hazardous properties of stock numbered items. Information will be submitted for inclusion in the DOD hazardous materials information system.

(5) Provide assistance and consultation in preparing and interpreting MSDSs, when not available from the product manufacturer.

(6) Assist TSG in providing guidance on health aspects in management of hazardous materials. Develop guidance for disposal of hazardous materials.

c. For the solid waste and hazardous waste management program—Provide personnel and other resources to ICs to—

(1) Conduct field surveys, studies, and provide technical advice to ensure compliance with Federal and State solid waste, hazardous waste, and medical waste management requirements.

(2) Recommend measures to protect health and environment.

d. For the environmental noise abatement program—

(1) Accumulate, evaluate, and disseminate data on—

(a) The noise environments of Army installations and facilities.

(b) How these environments affect the health and welfare of personnel.

(2) Maintain a repository of data on Army noise environments.

(3) Conduct studies, when requested; assist in technical matters pertaining to preparation of environmental assessments (EAs) or environmental impact statements (EISs); and recommend programs or projects to achieve pollution control.

(4) Provide technical consultation to commanders on environmental control, and assist in developing environmental abatement programs for facilities and activities.

e. For the asbestos management program; provide AMEDD resources to—

(1) Conduct field investigations, special studies, and surveys relative to asbestos per AR 40-5.

(2) Recommend measures to protect human health and the environment and to comply with all applicable Federal, State, local, and host-nation requirements.

(3) Provide laboratory support as necessary in order to execute AMEDD preventive medicine (PVNTMED) responsibilities.

1-24. Commanders outside of the United States (OCONUS)

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a. OCONUS commanders will—

(1) Comply with para 1-40 of this regulation.

(2) For the water resources management program—

(a) In overseas locations and in the absence of host-nation/SOFA requirements, provide drinking water of sufficient quality which complies with Federal or World Health Organization standards to control water pollution and to protect human health and the environment.

(b) Provide copies of annual drinking water laboratory analyses to Commander, USAEHA, ATTN: HSHB-ME-WR, Aberdeen Proving Ground, MD 21010-5422, for medical review and entry into the Army DWSP database.

(3) For the hazardous materials management program—

(a) Monitor the management of hazardous materials to protect the environment and the public health of Army personnel, civilians, and host nation personnel. This includes ensuring that MSDSs are available for all chemicals being stored and used.

(b) Obtain Army guidance on appropriate management of hazardous materials.

(c) Program and budget resources to manage hazardous materials, including training required by Army policy and applicable host nation laws and regulations.

(4) For the asbestos management program, provide AMEDD resources to—

(a) Conduct field investigations, special studies, and surveys relative to asbestos per AR 40-5.

(b) Recommend measures to protect human health and the environment and to comply with all applicable host-nation SOFA requirements.

(c) Provide laboratory support as necessary in order to execute AMEDD preventive medicine (PVNTMED) responsibilities.

b. For the air pollution abatement program, OCONUS commanders that are not subject to Federal environmental regulations promulgated by EPA will, in areas where host nations have no environmental regulations, monitor and control air pollution to protect the health and welfare of DA personnel and dependents and of host-nation personnel.

c. For the solid waste and hazardous waste management program, OCONUS ICs that are not subject to Federal environmental laws and regulations promulgated by EPA will—

(1) Respect host nation substantive standards and necessary procedural requirements on managing solid waste and hazardous waste (such as preparing waste manifest documents).

(2) Comply with HQDA waste minimization requirements in general but not the specifics of inapplicable CONUS-limited Federal and State laws and regulations.

(3) Ensure that all environmental compliance agreements on solid and hazardous waste comply with the procedures of this regulation.

1-25. Installation, activity, and unit commanders

a. Overall, commanders will—

(1) Establish an organizational structure to plan, execute, and monitor environmental programs.

(2) Establish and serve as the chairperson of an EQCC (para 12-13).

(3) Program and budget for the necessary funds and personnel in order to execute environmental programs and to comply with applicable Federal, State, regional, and local environmental laws and regulations.

(4) Design and execute an environmental program for tenant as well as Army activities, based on the policies in para 1-39, to achieve the Army's environmental goals and objectives.

(5) Integrate activities to protect and conserve environmental and natural and cultural resources into the planning and execution of the command's basic mission.

(6) Coordinate, consult, and cooperate with Federal, State, and local authorities to design and execute projects and activities required to bring the installation into compliance with applicable

Federal, State, regional, and local environmental protection requirements.

(7) Provide representatives of regulatory agencies appropriate access to any facility or activity to monitor compliance with applicable pollution abatement standards under their jurisdiction. Access will be limited only for reasons of national security or personal safety. For areas so restricted, all efforts will be made to arrange conditions for inspection.

(8) Require compliance with the SOH laws and regulations of all Federal, State, regional, and local authorities, particularly with regard to those sites where hazardous and toxic wastes and materials are generated, stored, handled, treated, or disposed. All persons entering such sites must be properly equipped, trained, certified (if so required by law), and subject to periodic health monitoring (AR 40-5 and 29 CFR sections 1910, 1917, and 1926).

(9) Report immediately, as prescribed in para 12-7—

(a) Imminent or actual noncompliance with environmental requirements, notices of noncompliance/NOVs, indications of environmental crises.

(b) Discoveries of illegal dumping by non-Army parties of hazardous materials, substances, or wastes onto Army property.

(c) Spills of oil and hazardous substances per paragraph 8-3.

(10) Conduct, in coordination with MACOM PAOs and per policies of HQDA CPA and this regulation, a public affairs program that complies with all applicable requirements of environmental laws and regulations and that supports the Army's environmental protection and enhancement activities. Refer all congressional inquiries concerning environmental matters to HQDA OCLL.

(11) Submit periodic and otherwise required environmental reports (see paras 6-4g, 6-6c, and 12-11) through appropriate command channels.

(12) Comply with requirements for environmental surveys of potential construction sites, per paragraph 12-14.

b. For the water resources management program, ICs (for ARNG, State adjutants general) will—

(1) Program and budget for personnel, materials, training, health monitoring, and equipment required to comply with water and wastewater treatment regulations (and comply with report requirements in the A-106 report).

(2) Set up and maintain programs to monitor routine wastewater control; ensure that installations comply with discharge limitations, proper regulations, and permits, and adhere to proper waste treatment operational procedures.

(3) Provide adequate quantities of drinking water that meets the quality requirements established by Federal, State, and local agencies.

(4) Obtain operating permits from appropriate Federal or State agencies for water supply and wastewater treatment systems, when required by Federal and State statutes.

(5) Notify the MACOM (for ARNG, notify NGB-ARI) as soon as new or renewed permits are received or new regulations are proposed or issued that will require modification, addition, or expansion of water or wastewater treatment facilities or their operation. Report the estimated cost and proposed compliance schedules for required actions.

(6) Maintain wastewater and drinking water monitoring records per applicable Federal, State, and local requirements. Examples of these records include, but may not be limited to, the following—

(a) Strip chart recordings.

(b) Monitoring charts.

(c) Correspondence with regulatory agencies.

(d) Inspection reports.

(e) Laboratory test results.

(f) Calibration and quality assurance data.

(g) Sanitary survey reports.

(7) Maintain routine sampling and analysis programs to ensure compliance with applicable Federal, State, or local regulations. Provide copies of annual drinking water laboratory analyses to Commander, USAEHA (HSHB-ME-WR), Aberdeen Proving

Ground, MD 21010-5422, for medical review and entry into the Army DWSP database.

(8) Submit copies of NOVs and other regulatory proceedings to the appropriate MACOM (for ARNG, to NGB-ARI-E).

(9) Ensure that non-point source (NPS) abatement is considered in all construction, installation operations, and land management plans and activities to include—

(a) Providing input to NPS pollution abatement plans and programs at the State and local level.

(b) Complying with NPS pollution abatement laws and regulations at the State and local level.

(c) Developing an inventory of the quality characteristics and quantity of significant NPS pollution at the installation.

(d) Conducting routine stream quality monitoring programs to assess the impact of NPS pollution at the installation.

(e) Developing best management practices plans for significant sources of NPS pollution.

(f) Including NPS pollution control measures in new construction projects.

c. For the air pollution abatement program, commanders will—

(1) Identify air pollution emission sources and maintain an up-to-date inventory of all these sources on their installation.

(2) Monitor these air pollutant emission sources within their installations, or under their control, per applicable Federal, State, and local regulations and to protect health.

(3) Obtain construction and operating permits for air pollution sources as required by applicable Federal, State, and local air quality regulations. Keep all permits current and meet permit requirements. Register with the regulatory authority all sources required to be registered.

(4) Program remedial projects, and budget the necessary funds to control and monitor those sources that do not comply with applicable laws and regulations or that present a health hazard.

(5) Provide reports, emission data, and other information to regulatory agencies as required by regulation or permit requirements.

(6) Report those sources requiring remedial action in A-106 report.

(7) Coordinate with local representatives of Federal, State, regional, and local agencies when formulating and executing the installation master plan, projects, and operations, to ensure that these activities comply with applicable regulations.

(8) Participate in the regulatory development process for—

(a) State and local air pollution standards and regulations.

(b) Off-installation land-use plans.

(c) Area air pollution abatement strategies.

(d) Emergency air pollution episode strategies.

(9) Establish and maintain programs to train persons who control and monitor air pollution emissions (for example, equipment operators, mechanics, and environmental managers); program and budget for training requirements.

(10) Monitor and maintain assigned motor vehicles to ensure that their operation complies with applicable regulations.

(11) Develop an air pollution emergency episode plan if required by the regulatory authority.

d. For the hazardous materials management program, installation and activity commanders (for ARNG; State adjutants general) will implement a hazardous material management control program and will—

(1) Supervise the procurement, use, storage, and ultimate disposition of hazardous materials as required by this regulation and Federal and State laws and regulations.

(2) Establish proper procedures to protect public health and the welfare of persons who are potentially exposed to these materials.

(3) Ensure that required MSDSs are provided for each type of chemicals procured.

(4) Comply with all Federal, State, local, and Army requirements governing the management of hazardous materials.

(5) Use nonhazardous and nontoxic materials in installation and activity operations and procedures when practicable.

ment program for hazardous material and pest management. Identify requirements in the A-106 report.

(7) Program and budget for training of pest management personnel to comply with Federal and State laws and regulations and Army policies.

(8) Ensure a coordinated effort among all installation/activity elements concerning life-cycle management of hazardous materials.

(9) Ensure that all hazardous materials are properly stored to reduce the need for corrective action.

(10) Establish procedures to identify and correct deficiencies concerning hazardous materials management.

e. For the environmental noise abatement program, commanders will—

(1) Develop noise zone maps for the installation's current and long-range peacetime capabilities. (The maps will be part of the overall master plan and ICUZ study.)

(2) Conduct the initial and follow-up ICUZ studies per chapter

(3) Provide technical information to local, regional, and State agencies to assist them in developing their land use plans, zoning regulations, or regulatory requirements related to environmental noise. Explain the ICUZ study and its implications to these agencies. Work towards compatible planning and development in the ICUZ study area.

(4) Identify continuous or recurring sources of noise that create a hazard; program and budget for resources needed to lessen this hazard.

(5) Establish a noise complaint procedure per paragraph 7-3.

(6) Establish an ICUZ committee per chapter 7.

(7) Maintain operational data per chapter 7.

(8) Designate the installation or activity's PAO, or a different official if deemed appropriate, as the single point of contact for noise complaints.

f. For the solid waste and hazardous waste management program, ICs (for ARNG, State adjutants general), in the area of compliance, will—

(1) Ensure that all hazardous waste generating activities and facility operators, including their tenant activities, subinstallations, and GOCO facility contractors, are knowledgeable of and comply with all applicable Federal, State, and local solid and hazardous waste management laws and regulations, including requirements for recordkeeping and reporting.

(2) Ensure that all instances of noncompliance with waste management laws, RCRA permit conditions, and enforcement orders are corrected as soon as possible. In those instances where compliance cannot be achieved as soon as desirable (such as where major construction is necessary), ICs should pursue negotiations with the State or Federal regulatory official to enter into a compliance agreement wherein the parties will commit to a schedule to achieve compliance. The compliance agreement will be sent through the staff judge advocate (SJA) command channels following coordination with the Director of Engineering and Housing (DEH) and MACOM engineer, to HQDA (DAJA-EL) WASH DC 20310-2210 for HQDA (ENVR-E) WASH DC 20310-2600, prior to signature by the IC (see also paras 6-3 and 12-6).

(3) Serve as the principal official of the installation in negotiating with State and Federal regulatory officials to ensure compliance with local, State, Federal, or host nation requirements on solid waste and hazardous waste management, including any plan to provide funds for compliance, to establish a schedule to correct NOV's or to seek approval for permits or permit renewals.

(4) Ensure that all personnel involved in solid waste and hazardous waste management activities are properly trained immediately upon their assignment. Hazardous waste training will comply with State and Federal requirements of RCRA (40 CFR 4.16), the OSHA (29 CFR 1910.120), and Army policies, and will be updated at least annually, unless otherwise stated as a condition of the RCRA permit, where applicable.

(5) Encourage timely and open communication with environmental and legal channels.

and State regulatory agencies to promptly resolve compliance concerns at the operational level.

(7) Be considered the hazardous waste "generator," as defined in 40 CFR 260.10, for purposes of signing RCRA records and reports, obtaining an EPA identification number as required by 40 CFR section 262.12, and completing the uniform hazardous waste manifest. Normally delegate responsibility to the Director of Logistics (DOL) for preparing EPA Form 8700-22 (Uniform Hazardous Waste Manifest) and EPA Form 8700-22A (Uniform Hazardous Waste Manifest (Continuation Sheet)), required by 40 CFR section 263.20, including authority to sign as the facility "owner" and "operator," if the latter is also applicable. Copies of EPA Form 8700-22 and EPA Form 8700-22A can be obtained from your appropriate EPA Region Office.

(8) Apply to Federal and State regulatory officials for required RCRA permits, RCRA permit renewals, and RCRA permit modifications, and sign the RCRA permit application as the "owner" and, in some cases, also as the "operator" of the facility, where applicable, as defined in 40 CFR sections 260.10 and 270.11, including all hazardous waste units operated by tenants and subinstallations. Signature authority for the RCRA permit, renewals, and modifications may not be delegated.

(9) Sign the RCRA permit application, compliance agreements, consent orders and responses to NOV's with the State and Federal permitting officials following the review by the installation SJA, environmental coordinator and resource manager (paras 6-3a, 6-4d, and 12-6). This responsibility may not be delegated.

(10) Ensure that the terms and conditions in the RCRA permit and RCRA compliance agreement(s) are realistic and achievable.

(11) Sign correspondence to the State or Federal regulatory agency on responses to NOV's, consent orders, and other enforcement documents that seek compliance with RCRA.

(12) Forward information on criminal indictments pursuant to RCRA, within 14 calendar days of notice, through command channels, to HQDA (DAJA-ELD) for coordination with HQDA (ENVR-EH).

(13) Ensure that all requirements of the NEPA and RCRA processes for public involvement are followed and that public comment is considered in environmental decision-making.

g. For the solid waste and hazardous waste management program, ICs (for ARNG, State adjutants general), in the area of waste management, will—

(1) Determine the most cost-effective and efficient means of waste treatment, storage, or disposal, including the use of: a regional facility on non-Army owned property for resource recovery, treatment, or disposal; industrial wastewater treatment plants, where applicable; and waste disposal services other than the Defense Reutilization and Marketing Service (DRMS).

(2) Ensure that hazardous wastes are properly identified, measured, and certified by the installation environmental official before offering for transportation.

(3) Identify a person to be responsible for daily management of solid waste and hazardous waste.

(4) Determine the use of proceeds from recycling programs, giving initial priority to improving environmental programs (see para 6-14b).

(5) Ensure sufficient funding levels to comply with RCRA requirements, dispose of solid and hazardous wastes, and support waste minimization initiatives.

h. For the solid waste and hazardous waste management program, ICs (for ARNG, State adjutants general), in the area of HAZMIN (para 6-6), will—

(1) Establish waste monitoring procedures to reduce the generation of waste and to limit the amount of waste requiring land disposal.

(2) Actively promote installation awareness of the Army's goals for HAZMIN and solicit ideas to promote waste minimization.

(3) Include HAZMIN as a key and on-going function of the EQCC (para 12-13).

(4) Develop a 5-year HAZMIN strategy consistent with HQDA and MACOM guidance and goals. Review and update

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this strategy annually to track progress in meeting the goals and to ensure the goals can be achieved.

(5) Require routine inspections of each hazardous waste-generating activity.

(a) Identify and characterize the hazardous waste producing processes and activities, including data on the type and quantity of hazardous materials used and hazardous waste generated by these activities (para 6-6c).

(b) Evaluate and implement HAZMIN options that are economically practical and consistent with Federal, State, and host nation hazardous waste laws and regulations.

(c) Provide an accurate, annual account of the type, quantity, and individual costs associated with the treatment, storage, and disposal of hazardous wastes.

(d) Require the DOL to implement a hazardous material procurement and inventory control program at each activity.

(6) Provide an annual hazardous waste report using EPA Form 8700-13A/B to HQDA (ENVR-EH), through the MACOM, by 1 March of each calendar year on the efforts and accomplishments of the installation hazardous waste program, including HAZMIN activities (para 6-6c).

(7) Provide an incentive awards program to encourage and promote maximum awareness of the installation HAZMIN program.

(8) Program, budget, and defend resource requirements to manage the solid waste and hazardous waste program including funds for equipment, studies, operational costs, maintenance costs, treatment, storage or disposal, waste minimization, personnel training, and RCRA permit or host nation equivalent, as applicable.

i. For oil and hazardous substances spill contingency planning, control, and emergency response, commanders will—

(1) Develop and implement SPCCPs and ISCPs (paras 8-4 and 8-5), establish procedures, and provide resources to prevent spills and to ensure prompt and adequate reporting, containment, and cleanup of spills of oil or hazardous substances that occur at or near installations due to Army activities.

(2) Perform periodic surveys or inspections to verify compliance with this regulation and test the effectiveness of ISCPs.

(3) Ensure that all oil and hazardous substances are used, stored, and otherwise handled so as to avoid or minimize the possibility of spills.

(4) Provide engineering safeguards to prevent spills of stored oils and hazardous substances, such as dikes, catchment areas, and relief vessels.

(5) Identify in the ISCP those resources and capabilities that could be made available to the LEPC or RRT if requested, and, if consistent with operational commitments, to assist in containing or cleaning up a spill not due to Army activities (see AR 500-60).

(6) When required by CINC, FORSCOM, provide available resources to support the IOSC when the NCP is implemented.

(7) Consult with the installation PAO, and so notify the MACOM, about the actual and/or anticipated news media coverage, local public reaction, and proposed public affairs response to a spill of oil or hazardous substances.

(8) Identify, program, and budget needs for the staffing, materials, equipment, SOH training programs, and periodic health monitoring necessary for personnel to carry out oil and hazardous substances spill prevention, countermeasures, and control, and emergency response. Identify requirements in the A-106 report.

(9) Determine, for off-post spills due to Army activities in the immediate vicinity of the installation, whether or not the installation has the resource capability to respond to the spill. Accordingly, establish a procedure for either making such response or engaging other Federal agency response assistance.

(10) Designate an Army employee to represent the IC at meetings of the LEPC and to provide, to the extent practical, the information requested by the LEPC or any other party. Comply with any request for copies of Army documents housed at or available to the installation (including reports, plans, and permits), provided

that those documents are available under the Freedom of Information Act and are not classified, and also provided that no resources are spent in creating new documents or transferring data to blank forms.

(11) Require that contractors and subcontractors, whether or not located on the installation, and tenants comply with all of the requirements of the Emergency Planning and Community Right-To-Know Act that apply to their operations on or off the installation.

(12) Ensure that contract agreements for response actions disposal of oil and hazardous spill residue on behalf of the A contain provisions that require the disposal procedures and operations to be carried out per applicable regulations.

(13) Appoint an IOSC and an installation response team (IRT). Ensure that the IOSC and IRT are adequately trained and prepared to act per the NCP. The IOSC has primary responsibility for response actions following a spill and will coordinate response plans with RRT, State, and local representatives. The IOSC will—

(a) Report all spills of reportable quantities of oil and hazardous substances, per paragraph 8-3 and AR 500-60, through command channels to the appropriate authorities (also see table 8-1 and fig 8-1).

(b) Ensure that the RRT and the appropriate DOD agencies are notified for necessary action if installation personnel cannot respond sufficiently to contain and clean up a spill.

(c) In the case of a chemical spill, obtain emergency assistance in the form of information regarding the effects of chemicals on human health or the environment, and suggestions for treatment, containment, and control of a spill, leak, fire, or explosion. This emergency assistance is available on a 24-hour basis from the National Response Center (NRC), the AOC, and the Chemical Transportation Emergency Center (CHEMTREC). (See table 8-1 for telephone numbers.)

j. For the environmental restoration program, the IC is responsible for all IRP projects on the installation. On installations included or proposed for inclusion on the NPL, or designated as "critical" by the ACE, the IC will ensure that USATHAMA is fully involved in the IRP work. In addition, the IC will—

(1) Ensure that IRP activities are performed per all applicable Federal, State, regional, and local requirements, and Army, guidance, protocols, and SOPs concerning environmental and related SOH matters, and per this chapter and chapters 9 and 12.

(2) Report to the MACOM (or NGB), concerning IRP projects—

(a) Major IRP developments, including the discovery of off-post migration and other environmental crises (paras 9-8, and 12-7, and chapter 8); development of response plans; status of negotiations on interagency agreements (para 12-6) and RODs (provide drafts); proposals for real property transactions (para 12-5); and environmental reports (see para 12-11; provide copies).

(b) Incidents of actual or imminent noncompliance with applicable requirements, including worksite SOH rules (paras 9-8 and 12-7, and chapter 8; provide copies of NOV) and the status of negotiations on interagency agreements (para 12-6; provide copies of drafts).

(3) Reports discovered releases or sources to the appropriate EPA, State, regional, and local authorities, after reporting to and coordinating with the MACOM (or NGB) environmental and public affairs staffs (chap 8). Provide information about the discovery to the public in a timely manner through public affairs channels, and, if applicable, in an administrative record placed in a public repository (para 9-9b(4)). Refer all congressional inquiries to HQDA CPA.

(4) Identify in the Army's environmental reporting procedures (para 12-11) the financial resources needed to ensure that releases and sources on the installation will be addressed expeditiously. The IC is responsible for the quality of the environmental data reported (see the requirements listed in paras 1-22h(2) and 12-11).

(5) Ensure the results and conclusions of each stage of the program are documented with supporting data. This information be provided, through the MACOM (or NGB), to USATHAMA. All decisions on initiation of subsequent actions (or no action)

must be documented and coordinated through the MACOM (or NGB) with USATHAMA.

(6) Ensure provision of SOH training and periodic health monitoring, per paras 1-16 and 1-17.

(7) Exercise concurrence authority with regard to a related FUDS project (para 9-5c).

(8) Serve as the lead agency per the national oil and hazardous substances pollution contingency plan (NCP, 40 CFR 300) and assign an on-scene coordinator/remedial project manager (OSC/RPM) for all on-going IRP projects on the installation. The OSC/RPM will act as the IC's representative on all IRP matters and perform the duties described in 40 CFR 300.33(b). The OSC/RPM will also—

(a) Coordinate with the MACOM (for ARNG, NGB) and USATHAMA all proposals for removal and remedial actions, and, per procedures stated in paragraph 9-7, select and recommend to the IC for signature the preferred remedial action alternatives that are to be sent to the MACOM (or NGB) for concurrence. Waiver of this requirement may be requested in cases of actual or imminent threat to public health or the environment; however, the IC must make such a request immediately by telephone through the chain of command to both USATHAMA and HQDA (ENVR-E).

(b) Serve as the installation's point-of-contact for coordinating with regulatory agencies.

(c) Monitor the activities of contractors as requested by USATHAMA or the USACE FOA.

(d) Review and comment on draft reports prepared by USATHAMA or IRP activities, and by the USACE FOA for a related FUDS project, if any, and authorize reports for release.

(e) Review response plans and recommendations for IRP response actions and proposed future actions, in coordination with the MACOM (or NGB), USACE FOA, and USATHAMA concerning, for example, studies, monitoring, removal actions, and the preferred remedial action alternative. The ACE will serve as arbiter of disputes between MACOMs and USATHAMA. For such assistance, the IC should make immediate request by telephone through the chain of command to HQDA (ENVR-E). Special approval and coordination requirements for installations included or proposed for inclusion on the NPL are covered in paragraphs 9-9 and 12-6.

(f) Ensure that currently operating facilities are not and do not become sources of hazardous materials contamination. Also, the OSC/RPM will coordinate and plan IRP and installation activities so as to avoid interference with operating activities.

(g) Ensure that EPA and State, regional, and local officials have an adequate opportunity for timely review and comment on proposed activities.

(h) Establish a TRC, if applicable, per paragraph 9-10.

(i) Develop and maintain a community relations program for IRP activities that include public notification and comment. All releases of information regarding IRP activities will need the approval of the IC. Conduct public participation and community relations activities in coordination with the installation and MACOM PAO and per paragraph 9-11. Refer all congressional inquiries to HQDA OCLL. For an installation that is included or proposed for inclusion on the NPL, the IC will appoint a community relations coordinator (para 9-9).

(j) Establish an administrative record if the installation is included or proposed for inclusion on the NPL (para 9-9b(4)).

(9) Ensure that proposals for real property transactions concerning installations included in the IRP will be immediately reported through command channels to HQDA (ENVR-E) (para 12-5).

k. For the asbestos management program, installation and activity commanders (for ARNG, State adjutants general) will—

(1) Establish and execute an asbestos management plan in support of DA and MACOM asbestos management policies.

(2) Program and budget for adequate resources to execute effective asbestos management programs. Identify requirements in the A-106 report.

l. For the Army radon reduction program, IC (for ARNG, the State adjutant general) will—

(1) Implement the U.S. Army radon reduction program as outlined in chapter 11.

(2) Program and budget for the measurement of radon in installation structures and for the mitigation of elevated radon levels. Identify requirements in the A-106 report.

1-26. Directors of Engineering and Housing (DEHs) and Directors of Safety, Health, and Environment (DSHEs)

The DEH/DSHE will—

a. For the solid waste and hazardous waste management program, the DEH/DSHE will—

(1) Serve as the IC's expert representative for the management of waste unless otherwise identified by the IC.

(2) In the area of compliance—

(a) Immediately advise the IC on the receipt of enforcement notices, such as NOV's, consent orders or RCRA compliance agreements (paras 6-3, 12-6, and 12-7).

(b) Advise all waste generating activities on the State, Federal, host nation, and Army requirements for managing solid and hazardous waste, including requirements for permits and reporting and recordkeeping, to ensure compliance.

(c) Prepare all required reports on solid and hazardous waste, including the biennial report of 40 CFR 262.41 on the treatment, storage, or disposal of hazardous waste, and waste minimization; the A-106 report, and the annual hazardous waste report (paras 6-6c and 12-11).

(d) Monitor installation compliance with the local, State, Federal, or host nation solid waste and hazardous waste requirements, including activities of tenants and subinstallations, and recommend changes in policies or procedures to improve program management to the IC when necessary or advisable.

(e) Prepare RCRA permit applications, permit modifications, permit renewals, records and reports, and responses to NOV's and negotiating compliance agreements, in a timely and complete manner, and ensure their timely preparation by the tenant activity prior to signature by the IC, indicating approval, to Federal, State, and local regulatory officials.

(f) Prepare and monitor compliance with the hazardous waste management plan (para 6-4b) that establishes procedures and responsibilities for managing hazardous wastes.

(3) In the area of waste management, including disposal, consistent with all applicable local, State, and Federal requirements—

(a) Advise the IC, in coordination with waste generating activities, on the most cost-effective and efficient means of waste storage, treatment, and disposal, to include the siting of new waste management facilities and the need to modify existing facilities, such as industrial wastewater treatment plants, to treat hazardous waste or to construct new waste management facilities.

(b) Provide technical assistance and guidance to hazardous waste generating activities, tenants, and operators of RCRA hazardous waste treatment, storage, and disposal units.

(c) Provide for analysis of waste to determine if it is hazardous as defined in Federal, State, or host nation laws and regulations and consistent with requirements of 40 CFR 264.13, the hazardous waste management plan, and the RCRA permit.

(d) Ensure that hazardous wastes are properly identified, segregated, and weighted pursuant to Federal, State, host nation and Army requirements prior to treatment, storage, or disposal or prior to offering for transportation, including to the Defense Reutilization and Marketing Office (DRMO).

(e) Certify that wastes are hazardous wastes and provide copies of waste analyses prior to arranging for off-post transportation of hazardous wastes, including to the DOL or DRMO.

(f) Coordinate an installationwide inventory of all hazardous waste generated, and identify the waste generating activities. This inventory will be accomplished annually, to accurately account for each previous calendar year's generation (para 6-4c).

(g) Establish, monitor, and execute programs in waste management, including waste minimization, resource recovery, and recycling. This will be done in compliance with State and Federal

hazardous and solid waste laws and regulations and the requirements of Army regulations.

(h) Ensure regular and systematic collection of solid waste from designated pickup stations, and disposal of solid wastes to provide efficient and cost-effective service per the requirements of AR 420-47, AR 420-10, and TM 5-634.

(i) Periodically review such factors as number and location of pickup stations, truck routes, type of equipment, scheduling, supervision, and use of personnel to effectively manage solid wastes.

b. For the asbestos management program, the DEH (for ARNG, the Facilities Management Office (FMO)), under the direction of the IC, will—

(1) Establish an installation asbestos management team and appoint an asbestos management control officer (or team leader, normally from the DEH). This team will, as a minimum, consist of representatives from—

- (a) DEH.
- (b) Environmental Office.
- (c) PVNTMED.
- (d) Safety Office.
- (e) Civilian Personnel Office.
- (f) SJA.
- (g) PAO.

(2) Use the installation asbestos management team to prepare, coordinate, and execute an installation asbestos management plan per paragraph 10-3.

(3) Maintain records of asbestos survey results and plans, and update these records as changes occur. Records will be maintained for 30 years after the last incidence of employee exposure to asbestos.

(4) Annotate master planning documents and record drawings to indicate real property that contains asbestos.

1-27. Director of Logistics/Director of Supply (DOL)

a. For the hazardous materials management program the DOL (for ARNG-USP&FO) will—

(1) Monitor installationwide use of hazardous material to ensure progress in meeting Federal and Army hazardous waste minimization goals and requirements, and provide quarterly progress reports to the DEH (para 6-6).

(2) On a semiannual basis, recommend opportunities and provide a progress report to the IC in reducing the use and toxicity of hazardous material, following the concurrence of the DEH.

(3) Manage and dispose of radioactive materials.

b. For the solid waste and hazardous waste management program, the DOL (for ARNG, USP&FD) will—

(1) Arrange for and monitor all on-post and off-post shipments of hazardous waste, to ensure compliance with Federal, State, Army, DOD, and host nation requirements on transporting hazardous wastes.

(2) Prepare and maintain records and reports, including hazardous waste manifests, on transporting hazardous wastes as specified by Federal, State, Army, DOD, and host nation requirements. This includes records maintained by the DRMO, where co-located on an Army installation.

(3) Sign the hazardous waste manifest as the IC's designee.

(4) Coordinate with the DEH to obtain certification that wastes meet the Federal, State, or host nation definition of hazardous waste, prior to offering for off-post transportation including to the DRMO.

(5) Advise waste generating activities on proper requirements for packaging, labelling, and shipping of solid waste and hazardous waste to enable the DOL to ensure that off-post transportation of these waste conforms with Federal, State, Army, DOD, and host nation requirements.

(6) Ensure environmentally safe on-post and off-post transportation of solid wastes and hazardous waste.

(7) Actively support the DEH in measuring progress to meet Federal and Army waste reduction goals and requirements.

(8) Communicate regularly with the DLA activity serving the installation to maintain current information on markets for excess or unserviceable materials and solid and hazardous wastes.

1-28. Commanders of medical department activities (MEDDACs) and U.S. Army Medical Centers (MEDCENs)

a. For the solid waste and hazardous waste management program, MEDDAC and MEDCEN commanders will—

(1) Be responsible for the disposal of non-RCRA medical, dental, and veterinary supplies, and infectious waste per AR 40-5, Federal and State laws, and the DEH. The MEDDAC/MEDCEN commander will provide monthly reports to the IC on these disposal activities.

(2) Provide the IC or the IC's designee with the solid waste and hazardous waste management implications of new and revised MEDDAC/MEDCEN practices for review and concurrence.

(3) Prepare and maintain a management plan for the disposal of medical waste.

b. For the asbestos management program, the installation medical authority (IMA (for ARNG, the regionally supporting HSC MEDCEN/MEDDAC)) will—

(1) Provide guidance, assistance, and recommendations to the safety officer and the DEH in the areas of asbestos surveys, sampling, exposure control, and risk assessment per responsibilities described in TB MED 513.

(2) Perform workplace sampling and analysis, as prescribed by OSHA, where asbestos is used in recurring industrial operations. Support asbestos abatement projects by performing sampling and analysis where the abatement work is not part of a contract effort.

(3) Provide technical guidance on personal protective equipment, including respirators, required for personnel involved in asbestos maintenance, repair, and abatement actions.

(4) Perform physical examinations before placement, annually during employment, and at the termination of employment for DA employees working with asbestos, as required by TB MED 513.

(5) Furnish technical guidance to DEH for providing worker education/training for individuals identified to work with asbestos.

(6) Maintain health records of all employees and former employees involved in working with asbestos, as required by A 40-5 and AR 40-66.

(7) Program and budget adequate resources to accomplish asbestos medical support responsibilities.

(8) Provide technical oversight for contract efforts involving asbestos O&M and abatement.

(9) Provide expertise in compliance matters associated with asbestos health-related Federal, State, local, and host nation requirements.

c. For the Army radon reduction program, the IMA (for ARNG, the regionally supporting HSC MEDCEN/MEDDAC) will provide consultation within the technical capability of assigned personnel.

1-29. Heads of hazardous waste generating activities

Heads of the hazardous waste generating activity will—

a. Properly identify, label, package, treat, store, dispose of, measure, transport on-post, or offer for transport off-post hazardous wastes per requirements of RCRA (including the RCRA permit), Department of Transportation (DOT), and the hazardous waste management plan (para 6-4b). This includes providing accurate identification of the hazardous waste using Federal, State, and host nation hazardous waste identification numbers, and accurately determining the weight of the wastes, before reporting the information on the DD Form 1348-1 prior to turn-in to the DRMO or offering to DOL for transportation (see glossary, sec II).

b. Ensure that all hazardous wastes generated during operations are certified as hazardous waste by the DEH and tracked to minimize the potential for worker exposure, spills, or mixture with nonhazardous wastes.

c. Maintain accountability for and document the flow of hazardous materials from the point of receipt to the point of turn-in for disposal (chap 5).

d. Minimize waste generation whenever possible and feasible.

e. Provide the DEH with the information necessary to prepare reports for local, State, and Federal regulatory agencies and the Army and DOD per the hazardous waste management plan (para 6-4b).

f. Maintain an accurate current inventory of hazardous waste that reflects changes in operation.

1-30. Installation preventive medicine (PVNTMED) services

Installation PVNTMED personnel will—

a. Support the installation solid waste and hazardous waste management programs per Federal, State, and Army requirements, including AR 40-5.

b. Provide technical assistance in identifying wastes and inventorying sources of hazardous waste.

c. Represent the MEDDAC/MEDCEN as an installation tenant and the hazardous waste generator.

1-31. Installation safety officers

The installation safety officer (for ARNG, the State safety officers) will—

a. For the solid waste and hazardous waste management program, monitor the storage, packaging, transportation, treatment, storage, and disposal of waste and personnel training requirements to ensure compliance with Federal, State, and Army safety standards.

b. For the asbestos management program, the installation safety officer (for ARNG, the State Safety officers) will—

(1) Support the DEH and the installation PVNTMED officer by assisting in all safety matters related to asbestos management.

(2) Receive and investigate asbestos-related employee complaints of unsafe working conditions.

(3) Support the DEH in providing worker education/training for individuals identified to work with asbestos.

(4) Provide expertise in complying with asbestos safety-related Federal, State, local, and host nation requirements.

1-32. Chief, installation public affairs office (PAO)

The Chief of the installation PAO will—

a. Establish the necessary supporting public affairs program.

b. Coordinate and conduct public involvement activities to obtain a RCRA permit and RCRA permit modifications, including an EA or EIS if applicable.

c. Assist the commander in preparing for any public hearings or public meetings sponsored by EPA or States to issue or modify a RCRA permit for the installation.

1-33. Commander, Defense Reutilization and Marketing Service

a. For the solid waste and hazardous waste management program—

(1) The Cdr, DRMS, through field DRMOs, has primary DOD responsibility for the sale, donation, reutilization, and disposal of DOD waste as prescribed in DOD 4160.21-M. DRMOs do not accept—

(a) Toxicological, biological, radiological, and lethal chemical warfare materials which, by U.S. law, must be destroyed. Disposal of the by-products of such material is the responsibility of the DOD component generating the waste with assistance from the DLA.

(b) Material that cannot be disposed of in its present form due to military regulations (for example, ammunition, explosives, and dangerous articles (AEDA); or controlled medical items). This category would include those instances where military regulations require the obliteration of all markings that could relate an excess material to its operational program. Once the appropriate actions are taken to meet the military regulatory requirements, the resulting material could then be turned in to the servicing DRMO.

(c) Municipal-type garbage, trash, and refuse resulting from residential, institutional, commercial, agricultural, and community activities which can be disposed of in a State or locally permitted sanitary landfill.

(d) Contractor-generated materials that are the contractor's responsibility to dispose of under the terms of the contract.

(e) Sludge resulting from municipal-type wastewater treatment facilities.

(f) Sludge and residue generated as a result of industrial plant processes or operations. Properly identified industrial process sludge and residue that are neither commingled nor a product of an industrial waste treatment facility are the responsibility of DLA. DLA does not take sludge and residue from wastewater treatment facilities. DLA does take sludge and residue from industrial processes that have not been commingled. For example, sludge and residue from industrial process "A" must be collected and stored separately from sludge and residue resulting from industrial process "B." Each process may result in sludge and residue that contain a mixture of ingredients and contaminants, but the sludge and residue from each process must be collected and stored separately and not commingled.

(g) Refuse and other discarded material resulting from mining, dredging, construction, and demolition operations.

(h) Unique wastes and residue of a nonrecurring nature generated by research and development experimental programs. Installations are responsible for disposal of these materials (para 6-11).

(2) DRMS will contract for pickup and hazardous waste disposal services pursuant to the requirements of DOD 4160.21-M chapter XXI, and this regulation. In the case of conflicting requirements, the Army requirements will govern.

b. For the asbestos management program, DRMS will dispose of noncontract-generated asbestos per DOD 4160.21-M (the Defense Reutilization and Marketing Manual) and para 10-2.

1-34. Tenants, Federal and nonfederal

Tenants (such as the DRMO) on Army properties or where the Army is a tenant on non-Army property will comply equally with the requirements of local, State, and Federal solid waste and hazardous waste management laws and regulations and Army policies.

1-35. Managers of Government-owned contractor operated (GOCO) facilities

a. When production is not directly funded by DOD appropriations, GOCO facilities that produce ammunition on Army installations will—

(1) Apportion fees to support the treatment, storage, and disposal of solid and hazardous waste generated by the operating contractor.

(2) Establish administrative requirements to preclude the Federal Government from incurring liability associated with the treatment, storage, or disposal of solid and hazardous wastes.

(3) Prohibit the use of DOD personnel in handling solid and hazardous wastes.

(4) Comply with Federal and State laws and regulations and Army policies on reducing the volume or quantity and toxicity of hazardous waste and solid waste.

(5) Ensure that full production capacity of the GOCO ammunition plants will be available in the time of an emergency or under special circumstances.

(6) Prohibit the use of on-site hazardous waste treatment, storage, and disposal facilities for non-DOD owned hazardous wastes generated off-site (para 5-4).

b. Contractors at GOCOs will pay fines assessed by State and Federal regulatory agencies for noncompliance with Federal and State solid and hazardous waste laws and regulations incurred by the contractors, due to operation of the facility. The Army cannot reimburse the contractor for payment of fines.

1-36. Chiefs of civilian personnel offices (CPOs)

Chiefs or CPOs will support the DEH in providing worker education/training for individuals identified to work with asbestos.

1-37. All supervisors

All supervisors will—

a. Ensure that all employees working with asbestos receive a physical examination prior to employment, annually during employment, and at termination of employment, as required by TB MED 513.

b. Enforce proper workplace procedures and practices.

c. Execute special in-house O&M procedures.

d. Obtain certification for in-house asbestos operations, as appropriate.

e. Program for training in asbestos management as necessary.

f. Ensure that employees working with asbestos are properly trained in its handling and management.

g. Obtain and maintain adequate levels of equipment and supplies necessary for in-house asbestos management.

h. Ensure that necessary personal protective equipment such as respiratory devices, clothing, head protection, and other applicable appropriate gear are properly used and maintained.

Section III

Special Considerations

1-38. Environmental quality goals

To protect the environment and conserve our natural resource heritage, both for ourselves and future generations, the Army has adopted environmental quality goals. ASA(IL&E), through DASA(ESOH), establishes Army policy to attain these goals, which are to—

a. Demonstrate leadership in environmental protection and improvement.

b. Minimize adverse environmental and health impacts while maximizing readiness and strategic preparedness.

c. Assure that consideration of the environment is an integral part of Army decision-making.

d. Initiate aggressive action to comply with all applicable Federal, State, regional, and local environmental quality laws.

e. Restore lands and waters damaged through our past waste disposal activities.

f. Support Army programs for recycling and reuse of materials to conserve natural resources, prevent pollution, and minimize the generation of wastes.

g. Pursue an active role in addressing environmental quality issues in our relations with neighboring communities.

1-39. Environmental quality protection and enhancement policies

a. Achieving environmental goals is an integral part of the Army mission. To this end, the Army has established the policies below.

(1) The environmental effects of any proposed action will be considered during the earliest stages and throughout the planning process (AR 210-20 and AR 70-1). Such effects will be evaluated in the decision-making process along with technical, operational, mission-related, regulatory, and economic factors (see the requirements of NEPA in AR 200-2; also see DOD NEPA Directive 6050.1).

(2) Programs and actions will be considered, planned, initiated, and carried out in such a way as to prevent, minimize, or mitigate degradation of the environment or endangerment of human health.

(3) Activities will be monitored to ensure they comply with applicable Federal, State, regional, and local environmental quality requirements.

(4) Materiel and energy resources will be procured and used in such a way as to minimize pollution and waste generation. Use and procurement of materiel and energy resources will be per the national policies for energy conservation. Wastes generated will be minimized, reprocessed, or reclaimed for other productive uses to the greatest extent practicable.

(5) Materiel research, development, and acquisition for new weapons systems will be conducted so as to include alternative technologies which support the Army's goals for the reduction of hazardous waste generation.

(6) All personnel will be encouraged to foster an appreciation of the Army's support of the environmental protection effort, and an understanding of the urgent need to protect and enhance the natural environment and conserve natural resources. Further, all personnel will be encouraged to initiate, lead, and cooperate in carrying out the Army's environmental programs.

(7) To the extent practical, commanders and State adjutants general will cooperate in community environmental action programs and will comply with the requirements of the Community Right-To-Know Act, as directed by chapter 8 of this regulation and with the public involvement provisions stated in chapters 9 and 10. Further, all public notification requirements concerning actions subject to NEPA will be met.

(8) Historic and archeological sites, structures, and districts under Army jurisdiction that meet the criteria of the national register of historic places will be managed in a spirit of stewardship for the inspiration and benefit of present and future generations.

(9) Commanders and State adjutants general will protect and preserve for American Indians, Eskimos, Aleuts, and Native Hawaiians their inherent right of freedom to believe, express, and exercise their traditional religions, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites.

(10) On lands under Army jurisdiction, an integrated, multi-use, natural resource and land management program will be conducted (AR 405-80 and AR 420-74) that promotes the conservation and enhancement of—

(a) Forests and woodlands.

(b) Fish and wildlife populations and habitat.

(c) Threatened and endangered species.

(d) Prime and unique farmland.

(e) Soils and vegetation.

(f) Native prairies and grasslands.

(g) Surface water and groundwater supplies and quality.

(h) Wetlands and flood plains.

(i) Cultural and historical resources.

(j) Outdoor recreation resources.

(k) Esthetics.

(l) Public access opportunities.

(m) Nonconsumptive uses (for example, bird-watching, photography, and hiking).

(11) Real property transactions will be conducted according to the requirements stated in paragraph 12-5.

(12) Site selection for military construction will be conducted as stated in paragraph 12-14.

(13) Research and development will be conducted to—

(a) Provide the technology required to support pollution abatement programs.

(b) Minimize the environmental impact of using Army materiel.

(c) Minimize the use of hazardous and toxic materials, and the generation of hazardous and toxic wastes.

b. In the interest of national defense, it may be considered inappropriate to execute a policy stated in this regulation or the environmental requirements that this regulation cites for compliance. If so, a written request for exception, together with a report containing complete details will be referred through command channels to HQDA (ENVR-E) WASH DC 20310-2600, for review and coordination with HQDA (DAJA-EL).

1-40. OCONUS Environmental protection

At OCONUS locations, commanders of Army activities will maintain cooperative relationships with the regulatory agencies in the host countries or jurisdictions, and comply with the substantive pollution control standards of general applicability in the host countries or jurisdictions. Status of forces agreements (SOFAs) that permit or require standards other than those of the host country will be considered part of the environmental pollution abatement standards that apply to the Army in the host country jurisdiction. This regulation will be applied in fulfilling OCONUS environmental protection requirements, with special reference to paragraph 1-24 (see EO 12114 and AR 200-2, chapter 6).

Chapter 2 Research and Development Program

2-1. Scope

a. This chapter describes the objectives and policies of Army environmental quality research and development in support of the Army environmental quality program.

b. The Army RDTE program objectives are to—

(1) Maintain an environmental quality technology base program that is responsive to the Army's environmental quality program goals.

(2) Conduct RDTE on planned Army materiel in order to eliminate or reduce adverse environmental/health effects resulting from use of this materiel, over the life cycle, without impairing combat effectiveness; and to reduce hazardous material used and hazardous waste generated in producing new materiel and maintaining existing materiel.

(3) Prepare analytical protocols and processes for more efficient studies of environmental fate, effects, and toxicity.

(4) Conduct basic research, exploratory development, and non-systems advanced development in order to develop advanced technology in support of—

(a) Methods, equipment, and processes to reduce or eliminate hazardous/toxic waste generation. Examples are material substitution, recovery, recycle/reuse, processing changes, and treatment.

(b) Methods, equipment, and processes to contain, reduce, or eliminate hazardous/toxic wastes contained in soil, groundwater, and structures as a result of past disposal practices.

(c) Studies to determine safe environmental/human health criteria levels for Army-unique compounds in soil and groundwater.

(d) Methods, processes, and design criteria to minimize physical degradation of Army training ranges resulting from training activities.

(e) Methods, processes, and design criteria required to reduce noise impacts resulting from Army training activities.

(f) Methods and processes to provide more cost-effective methods for handling and disposing of hazardous materials and wastes generated from activities on Army installations.

(g) Methods, processes, and equipment for control of air emissions and water discharges.

(h) Studies, methods, and processes for handling and minimizing solid wastes.

(i) Methodologies and procedures to assist in management of natural and cultural resources.

2-2. Research and development requirements

AR 70-1 outlines how RDTE is conducted. It includes acquisition policy and procedures for RDTE systems. Chapter 2 of AR 70-1 defines Army Staff and MACOM responsibilities. Chapter 3 covers life-cycle management of Army systems and the program development process of the Army RDTE program. Chapter 4 explains the materiel acquisition decision process.

a. The Army EQT RDTE program includes the following three research categories—

(1) Basic research (RDTE Program Category 6.1). This category includes—

(a) Scientific study and experimentation directed toward increasing knowledge and understanding in those scientific fields that are related to national security needs.

(b) Research that provides fundamental knowledge for the solution of identified military problems.

(c) Research that provides that part of the technology base for subsequent exploratory and advanced developments in defense-related technologies leading to new or improved military functional capabilities.

(2) Exploratory development (RDTE Program Category 6.2). This category includes—

(a) Efforts directed toward solving specific military problems with a view towards developing proposed solutions and evaluating their feasibility and practicality. These efforts range from fundamental applied research to sophisticated prototype hardware to programming and planning efforts.

(b) Studies and minor development efforts.

(c) Efforts to develop technological processes that will be used to support the acquisition process. Technological processes are characterized as models, techniques, and simulation that are needed to optimize product developments.

(3) Advanced nonsystems development (RDTE Program Category 6.3A).

(a) This category includes all projects for which prototypical techniques have been developed for experimental or field tests.

(b) Advanced nonsystems development is characterized by development of component subsystems, by material technology demonstrations (including nonsystem technology research tasks), and by nonmateriel technology demonstrations. These demonstrations have potential applications to a variety of similar generic end products, and may or may not be supported by a justification for major system new starts or an operational and organization plan.

b. Products of the environmental quality RDTE program.

(1) Products of the environmental quality RDTE program include—

(a) Technical data packages.

(b) New or modified processes.

(c) Substitute materials.

(d) Technical manuals.

(e) Computer programs.

(f) Specialized detection and other automated equipment.

(g) Design criteria for pilot/field demonstrations.

(h) Improved design/maintenance/operations methods.

(2) These products provide direct support to—

(a) Military Construction, Army (MCA).

(b) O&M.

(c) Manufacturing methods and technology (MM&T).

c. Because of the important support role the environmental R&D program provides to the Army, R&D procedures will be implemented by the COE in order to ensure—

(1) *Identification of MADS.* MADS are used by the COE to identify technology needs in functional areas for which the COE is responsible. Proposed MADS are submitted by the environmental quality technology users within each MACOM who will forward them to the Commander, USACE DRD.

(2) *Program development.* The DRD is responsible for approving MADS. The prioritized MADS are sent to the appropriate laboratories to be used in preparing the long range science and technology plan. The LRS&T plan is used to develop the next POM cycle in addition to the Army long range research development and acquisition plan (LRRDAP).

(3) *Establishment of an environmental technical advisory board (ETAB).* An ETAB will be assembled and chaired by the DRD. The board will be composed of both users and environmental proponents of the EQT program. The users and proponents will be from the USACE, each MACOM, and Army laboratories or agencies conducting environmental research. The board will—

(a) Provide recommendations for work to be conducted under the EQT program.

(b) Ensure that all Army laboratories with environmental quality research capabilities use these capabilities in support of COE's operational mission requirements.

(c) Advise on technology transfer goals and plans.

(d) Monitor and help coordinate joint research projects or help plan such projects.

(4) *Program review.* During the third quarter of each FY, the ETAB will review the LRS&T plan for usefulness of proposed products. This review will—

(a) Evaluate the responsiveness of the EQT program to Army environmental MADS.

(b) Prioritize individual research projects.

(c) Evaluate technology transfer plans referenced in the LRS&T plan.

Chapter 3 Water Resources Management Program

3-1. Scope

a. This chapter identifies requirements that apply to fixed and field facilities for—

(1) Drinking water supplies (the Safe Drinking Water Act (SDWA), as amended).

(2) Prevention and control of surface and ground water pollution (the Federal Water Pollution Control Act (FWPCA), as amended).

(3) Dredge and fill operations (FWPCA, as amended).

(4) Ocean dumping (FWPCA, as amended, and the Marine Protection, Research, and Sanctuaries Act).

(5) Surface runoff control (FWPCA, as amended).

(6) Any State or local regulations that supersede the aforementioned Federal regulations.

b. The Army's main water resource management goals are to conserve water resources, protect them from contamination, and ensure their availability for legitimate uses (for example, drinking). To achieve this goal, the Army will—

(1) Control all sources of pollutants according to applicable Federal, State, and regional requirements.

(2) Obtain and comply with wastewater discharge permits per applicable Federal and State laws and regulations.

(3) Develop and implement water conservation plans.

c. The control of water contaminated by oil or hazardous substances is discussed in chapters 5 and 8.

3-2. Water resources management program requirements

Under the water resources management program, the Army will—

a. Conserve all water resources.

b. Control or eliminate all sources of pollutants to surface or ground waters by conventional treatment systems or by employing alternative or innovative processes. Land treatment or recycle/re-use technology is included.

c. Demonstrate leadership to attain the national goal of zero discharge of water pollutants.

d. Provide drinking water that satisfies standards set by EPA and all applicable State and local agencies (see tables 3-1 through 3-3 and figure 3-1 at end of this chapter), or satisfies Army standards developed for field environments and other military-unique situations.

e. Cooperate with Federal, State, regional, and local authorities in forming and carrying out water pollution control plans.

f. Control or eliminate runoff and erosion through sound vegetative and land management practices.

g. Consider NPS abatement in all construction, installation operations, and land management plans and activities.

3-3. The Clean Water Act

The CWA requires that Federal facilities be subject to and comply with all requirements, substantive and procedural, for control and abatement of water pollution.

a. Discharge permits

(1) NPDES permits are required for all point-source wastewater discharges into U.S. waters. At the discretion of the appropriate regulatory agency, NPDES permits may be required for certain field situations (for example, discharges from equipment such as water treatment units or field laundry and bath units). NPDES permits may also be required for discharges from minor industrial facilities. Examples of such facilities are wash racks, steam cleaning operations, and swimming pool filter backwash systems not connected to the sanitary sewer. For those situations which may warrant granting of an NPDES permit, coordination with the appropriate permitting authority is required.

(2) Upon receipt of draft NPDES permits, the permittee should immediately request a 60-day extension to the review period to provide sufficient review time for all appropriate DA agencies. MACOMs and State adjutants general will send copies of all

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NPDES permits (both draft and final) received from the EPA or a State to Commander, USAEHA, ATTN: HSHB-ME-WM, Aberdeen Proving Ground, MD 21010-5422.

(3) USAEHA should—

(a) Perform a technical review of each NPDES permit received.

(b) Provide advice of assistance to the IC, through proper command channels.

(c) Communicate with regulatory agencies, with the installation's or MACOM's approval, to clarify and discuss permit conditions.

(d) Provide written comments back to the permittee, who will forward them to the appropriate EPA regional or State office.

(4) ICs will report any potential problems that might cause the installation to be in noncompliance with the permits. Commanders will report these problems through command channels to USATHAMA, ATTN: CETHA-EC-S, Aberdeen Proving Ground, MD 21010-5401.

b. *Unlawful discharge.* To discharge any pollutant, after established compliance dates, that does not comply with applicable permit requirements is unlawful.

c. Site inspections

(1) Assuming that national security will not be compromised and that proper credentials have been presented, authorized EPA, State, or regional representatives must be allowed to enter an Army facility at reasonable times to—

(a) Examine or copy records.

(b) Inspect facilities and monitoring equipment.

(c) Sample any effluent the Army facility is required to sample.

(2) Inspectors from the agencies cited in (1) above will be accompanied by either engineer or medical technical representatives designated by the appropriate MACOM commander or State adjutant general.

d. Municipal/regional wastewater system connection

(1) The use of municipal or regional wastewater collection and disposal systems is the preferred method of disposal of wastewater from Army facilities when life-cycle cost analyses show such use is the most economical. A life-cycle cost analysis comparing treatment at an Army facility with that at a municipal or regional treatment facility will be performed whenever a new or upgrade Army treatment facility is considered.

(2) Economic considerations should include—

(a) Capital cost contributions to the municipality for a pro rata share of system capacity.

(b) Continuing user fees, surcharges, and any costs of pretreatment.

(c) Operation and maintenance costs associated with wastewater treatment facilities, including monitoring, utilities, equipment replacement, sludge handling, and personnel.

e. Pretreatment

(1) Pretreatment standards are applicable to all nondomestic discharges to publicly-owned treatment works (POTWs). POTWs are those owned by a State, municipality, interstate, or intermunicipal agency. All discharges from Army installations or activities to POTWs are regulated by pretreatment standards. Army-owned treatment facilities, although supported with public funds, are not POTWs. Nevertheless, discharges to Army-owned treatment facilities will comply with all pretreatment regulations applicable for discharges to POTWs. This policy does not necessarily prevent regulatory agencies from implementing further limitations for internal discharges to Army-owned treatment facilities, nor does it supersede applicable sewer-use ordinances.

(2) Prohibited discharge standards apply to all users of the treatment facility and forbid pollutants to pass through the treatment facility untreated, to interfere with treatment facility operations, or to contaminate sludge to the extent that its disposal opportunities are affected. Additionally, five categories of pollutants are outlawed—

(a) Pollutants that create a fire or explosion hazard in the collection system, or treatment facility.

(b) Pollutants that are corrosive, including all those with a lower than 5.0, unless the treatment facility and collecting system are designed to handle such discharges.

(c) Solid or viscous pollutants in amounts that will obstruct the flow in the collection system or treatment facility.

(d) Pollutants that are released at a flow rate or concentration that will interfere with the treatment facility operations.

(e) Discharges with temperatures greater than 104°F (40°C) when they reach the treatment facility, or high enough to interfere with biological treatment processes at the treatment facility.

(3) Certain Army installations are also subject to categorical pretreatment standards, depending on the nature of activities that take place on the installation. Applicability of categorical pretreatment standards is discussed in 40 CFR chapter I, subchapter N (parts 425-460).

f. *Innovative/alternative treatment.* The CWA requires the application of innovative and alternative techniques and processes in new and upgraded wastewater treatment facilities, if possible. Each construction programming document should reflect the fact that innovative or alternative technology was considered. Additional information may be obtained by request through command channels to Director, USAEHSC, ATTN: CEHSC-FU, Fort Belvoir, VA 22060-5516.

g. *Investigation of complaints.* Each installation commander and State adjutant general will—

(1) Establish procedures to investigate water pollution complaints and allegations from individuals and water pollution control authorities.

(2) Report immediately any legal action or potential legal action that exists through judge advocate channels to HQDA (DAJA-EL) WASH DC 20310-2210 or, for ARNG, to CNGB, ATTN: JA.

h. *Notification.* To ensure compliance with the CWA, ICs will adopt the procedures outlined in paragraph 12-7a for noncompliance notification procedures.

3-4. The Safe Drinking Water Act

a. Drinking water will be provided per the SDWA, as amended, or per TSG directives where applicable for field environments and other military-unique operations.

b. Potential environmental considerations are associated with the treatment of raw water for drinking water purposes. These considerations include the effects of brine and sludge discharged from water treatment systems, and water draw-off restrictions from surface or ground water sources. NPDES permits or other permits may be required for water treatment systems at both fixed and field facilities.

c. Water supply, collections storage, treatment, and distribution systems will be monitored, operated, maintained, repaired, and upgraded per—

(1) AR 420-46.

(2) AR 700-136.

(3) AR 40-5.

(4) TB MED 576.

(5) TB MED 577.

(6) TM 5-660.

(7) TM 5-813-1 through TM 5-813-7.

d. To ensure compliance with the SDWA, ICs will adopt the procedures outlined in paragraph 12-7a for noncompliance notification procedures.

3-5. Watercraft

a. Effluent limitations from watercraft are prescribed by—

(1) The U.S. Coast Guard (33 CFR 159).

(2) DOD (DOD Directive 6050.4).

(3) EPA (40 CFR 140).

(4) Individual States.

(5) SOFAs, international agreements, or applicable host nation legal mandates.

b. DA will comply with applicable regulations in a above and with standards and procedures set in Technical Bulletin (TB) 55-1900-206-14.

3-6. Certification and training

a. *Operator certification and training.* Operators of water, sewage, and industrial treatment plants will meet operator certification requirements of the State in which they are located.

(1) Job descriptions for treatment plant operator positions will require—

(a) A State certification or license, or

(b) The ability to become licensed and the mandate to obtain and maintain a license or certification per applicable regulations.

(2) Announcements of these positions will state this condition of employment.

(3) The authority for (1) and (2) above is Supplement 271-1, Federal Personnel Manual (FPM), at all facilities where State certification requirements apply.

(4) Operator training will be met through programs sponsored by—

(a) The State or regional health department.

(b) The local university or college of the State in which the facility is located.

(c) The U.S. Army operator assistance program.

(5) In the absence of programs listed in (4) above, training will be held at qualified institutions designated by the MACOM or by NGB-ARI (for ARNG).

b. *Laboratory certification.* Water, sewage and industrial waste laboratories will be certified per applicable Federal, State, or local regulations.

3-7. Dredge and fill operations

a. Dredge and fill operations include—

(1) Construction or other work involving excavation or fill in U.S. waters.

(2) Operations to modify navigable waters.

(3) Discharge of dredged or fill material.

b. The SA has primary jurisdiction over all dredge and fill operations. Dredge or fill operations require a separate permit to discharge the material under 40 CFR 225, unless the discharge is permitted under a general permit.

3-8. Technical assistance

Technical assistance on water treatment and wastewater disposal procedures can be obtained from—

a. Commander, HSC, ATTN: HSCL-P, Ft. Sam Houston, TX 78234-6000.

b. HQDA (DASG-PSP), 5109 Leesburg Pike, Falls Church, VA 22041-3258.

c. Director, USAEHSC, ATTN: CEHSC-FU, Ft. Belvoir, VA 22060-5516.

Table 3-1
Regulated contaminants—primary drinking water standards

Contaminant	Maximum contaminant level (MCL)	Monitoring frequency	
		Surface water	Ground water
Silver	0.05 mg/l	1 yr	3 yr
Arsenic	0.05 mg/l	1 yr	3 yr
Barium	1 mg/l	1 yr	3 yr
Cadmium	0.010 mg/l	1 yr	3 yr

Table 3-1
Regulated contaminants—primary drinking water standards—Continued

Contaminant	Maximum contaminant level (MCL)	Monitoring frequency	
		Surface water	Ground water
Chromium	0.05 mg/l	1 yr	3 yr
Lead ¹	0.005 mg/l	Quarterly	1 yr
Fluoride	4 mg/l	1 yr	3 yr
Mercury	0.002 mg/l	1 yr	3 yr
Nitrate (as N)	10 mg/l	1 yr	3 yr
Selenium	0.01 mg/l	1 yr	3 yr
Endrin	0.0002 mg/l	1 yr	State option
Lindane	0.004 mg/l	1 yr	State option
Methoxychlor	0.1 mg/l	1 yr	State option
Toxaphene	0.005 mg/l	1 yr	State option
2,4-D0	1 mg/l	1 yr	State option
2,4,5-TP (Silvex)	0.01 mg/l	1 yr	State option
Total Trihalomethanes ²	0.1 mg/l	Quarterly ³	Quarterly ³
Turbidity	One turbidity unit (TU) (monthly average) or five TUs (average on 2 consecutive days)	Daily	State option
Radium (Ra) 226 and 228	Screening if gross alpha > 5 picocuries per liter (pCi/l) then test for Ra226 + Ra228 > 5 pCi/l, if gross alpha	Every 4 yrs compliance with MCL based on average of analysis of 4 consecutive quarters)	
Beta Particle	Gross Beta: 50 pCi/l Tritium: 20,000 pCi/l Strontium 90: 8 pCi/l		
Gross Alpha	15 pCi/l	4 yr	4 yr
Radium 226 and 228	5 pCi/l	4 yr	4 yr
Gross Beta	50 pCi/l ³	4 yr	4 yr
Tritium	10,000 pCi/l	4 yr	4 yr
Strontium 90	8 pCi/l	4 yr	4 yr
Total Coliforms:			
<i>Membrane filter</i>			
Coliform must not exceed 1 per 100 ml for the average of all monthly samples, or 4 per 100 ml in more than one sample if less than 20 samples collected per month, or 4 per 100 ml in more than 5 percent of samples if more than 20 samples are collected per month.			
<i>Fermentation tube (10 ml portion)</i>			
Coliforms must not be present in more than 10 percent of portions per month. No more than 1 sample may have 3 or more portions positive when less than 20 samples are examined per month; not more than 5 percent of samples may have 3 or more portions positive when 20 or more samples are examined per month.			
Monitoring: Dependent on the size of population served.			

¹ Additionally, the use of lead pipes, solder, and fluxes is now prohibited. Solder and flux with less than 0.2 percent lead and pipes and pipe fittings with less than 8 percent lead may be used.

² Population greater than 10,000.

³ State may reduce frequency.

⁴ If MCL is exceeded, additional analyses are required to determine specific radioactive constituents present.

Table 3-2
Regulated contaminants—secondary drinking water standards

Contaminant	MCL
Chloride	250 mg/l
Color	15 color units
Copper	1.3 mg/l
Foaming agents	0.5 mg/l
Iron	0.3 mg/l
Manganese	0.05 mg/l
Odor	3 threshold odor units
pH	6.5–8.5
Sulfate	250 mg/l
Total dissolved solids	500 mg/l
Fluoride	2.0 mg/l
Corrosivity	noncorrosive
Zinc	5 mg/l

Table 3-3
Volatile organic compounds

VOC	MCL (mg/l)	Treatment
Benzene	0.005	Granular activated carbon (GAC) or packed tower aeration (PTA)
Carbon tetrachloride	0.005	GAC or PTA
1,2-dichloroethane	0.005	GAC or PTA
Trichloroethylene	0.005	GAC or PTA
para-dichlorobenzene	0.075	GAC or PTA
1,1-dichloroethylene	0.007	GAC or PTA
1,1,1 trichloroethane	0.2	GAC or PTA
Vinyl chloride	0.002	PTA only

List 1

Bromobenzene
 Bromodichloromethane
 Bromoform (DBCP)
 Chlorobenzene
 Chlorodibromomethane
 Chloroethane
 Chloroform
 Chlorotoluene
 p-Chlorotoluene
 Dibromomethane
 m-Dichlorobenzene
 o-Dichlorobenzene
 trans-1,2-Dichloroethylene
 cis-1,2-Dichloroethylene
 Dichloromethane
 1,1-Dichloroethane
 1,1-Dichloropropene
 1,2-Dichloropropane
 1,3-Dichloropropane
 1,3-Dichloropropene
 2,2-Dichloropropane
 Ethylbenzene
 Styrene
 1,1,2-Trichloroethane
 1,1,1,2-Tetrachloroethane
 1,1,2,2-Tetrachloroethane
 Tetrachloroethylene
 1,2,3-Trichloropropane
 Toluene
 p-Xylene
 o-Xylene
 m-Xylene
 Chloromethane
 Bromomethane

List 2

Ethylene dibromide (EDB)
 1,2-Dibromo-3-chloropropane

List 3

Bromochloromethane
 n-Butylbenzene
 Dichlorodifluoromethane
 Fluorotrichloromethane
 Hexachlorobutadiene
 Isopropylbenzene
 p-Isopropyltoluene
 Naphthalene
 n-Propylbenzene
 sec-Butylbenzene
 tert-Butylbenzene
 1,2,3-Trichlorobenzene
 1,2,4-Trichlorobenzene
 1,2,4-Trimethylbenzene
 1,3,5-Trimethylbenzene

Figure 3-1. Unregulated contaminants

Chapter 4**Air Pollution Abatement Program****4-1. Scope**

a. This chapter describes policy and procedures for controlling pollutant emissions into the air. This policy implements—

(1) The Clean Air Act (CAA) 1977 and applicable regulations issued according to this act.

(2) Applicable State and local air pollution regulations.

(3) Air pollution control provisions in other Federal and State environmental laws and regulations, including—

(a) RCRA of 1976, as amended.

(b) The Toxic Substances Control Act (TSCA) of 1976.

(c) CERCLA of 1980.

(d) Superfund Amendments and Reauthorization Act of 1986 (SARA of 1986).

(e) Applicable State and local environmental regulations.

b. Under this program, the Army will control the emissions of pollutants into the air to protect health and to meet all applicable Federal, State, and local regulations. The program includes activities to control emissions, and cooperation with appropriate regulatory agencies. The objectives are to—

(1) Identify and monitor air pollution emission sources; determine types and amounts of pollutant emissions; control pollutant levels to those specified in applicable regulations or to protect health.

(2) Procure commercial equipment and vehicles with engines that meet applicable standards and regulations and that do not present a health hazard. Exceptions are those vehicles or engines specifically excluded or exempted by EPA regulations or agreements.

(3) Ensure that each piece of military equipment is designed, operated, and maintained so that it meets applicable regulations.

(4) Monitor ambient air quality in the vicinity of DA activities per applicable regulations.

(5) Cooperate with EPA and State authorities to achieve the requirements of the regulations listed in a above and other pertinent regulations.

(6) Comply with all Federal, State, and local regulations concerning air quality.

c. Additional guidance concerning air pollution from hazardous and toxic materials is in chapters 5, 6, 8, 9, and 10.

4-2. Applicable standards

a. Air pollution emissions at Army facilities are from stationary and mobile sources. This paragraph describes those air pollution regulations and standards that apply to these sources at DA facilities in the United States or in locations OCONUS but within the jurisdiction of the law.

b. CAA prescribes procedures for improving and maintaining air quality to protect public health and welfare. The CAA and implementing regulations provide the basis for regulating emissions of *criteria pollutants* and specified hazardous air pollutants from certain major stationary sources. The primary regulatory mechanisms of the CAA are—

(1) *National ambient air quality standards (NAAQS) for "criteria" air pollutants.* There are currently NAAQS for six *criteria* pollutants: sulfur dioxide, particulate matter (PM₁₀), carbon monoxide, ozone, nitrogen dioxide, and lead.

(2) *New source performance standards (NSPS) applicable to specified major sources (affected facilities) of air pollutants (40 CFR 60).* These standards are currently applicable to 57 types of sources. These sources include, among others: industrial, commercial, and institutional steam-generating units of more than 100 million British thermal units (BTU)/hour, municipal incinerators with a charging rate more than 50 tons/day, fossil-fuel steam-generating units of more than 250 million BTU/hour, and certain nitric acid and sulfuric acid plants. These standards apply to construction of a new affected facility and modifications or reconstruction of an existing facility as defined in 40 CFR 60.14 and 15.

(3) *NESHAP, applicable to specified sources emitting hazardous air pollutants as listed in 40 CFR 61.* Some of the hazardous air pollutants covered by a NESHAP include asbestos, beryllium, mercury, vinyl chloride, and radionuclide emissions. These standards apply not only to construction of a new facility to which the standards are applicable, but also to modification of an existing source as defined in 40 CFR 61.15.

(4) *Implementation plans by each State to attain and maintain air quality standards.* This makes the State responsible for air quality and the State (or local) air pollution regulatory authority the primary regulatory authority for enforcement of air pollution regulations. State (or local) regulatory authorities determine the compliance status of Army facilities with air pollution standards, and issue any applicable permits.

(5) *Requirements for Federal facilities to comply with Federal, State, and local air pollution laws and regulations, both substantive and procedural.* In addition to meeting emission standards, Army facilities must obtain permits, provide reports, and perform other procedural requirements of Federal, State, and local air pollution

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regulations to the same extent that a nongovernmental entity must.

(6) *Standards for control of mobile source emissions.* Specific standards for control of air pollution from motor vehicles and motor vehicle engines are specified in 40 CFR 85; certification and test procedures for new motor vehicles and new motor vehicle engines are in 40 CFR 86. Standards for control of air pollution from aircraft and aircraft engines are specified in 40 CFR 87.

c. The RCRA and implementing regulations have several provisions regulating the release of air emissions from hazardous waste treatment, storage, and disposal facilities.

(1) Operators of incinerators burning hazardous waste must obtain appropriate RCRA permits and comply with air emission standards set forth in subpart O of 40 CFR 264 and 265.

(2) Open burning and open detonation of explosive wastes are subject to the provisions of subpart X of 40 CFR 264. Additional guidance on disposal of explosive ordinance is given in chapter 6.

(3) Hazardous wastes burned in a boiler or industrial furnace for energy recovery are subject to the provisions of subpart D of 40 CFR 266. These hazardous wastes are termed *hazardous waste fuel*. Fuel produced from hazardous waste by processing, blending, or other treatment is also hazardous waste fuel. Hazardous waste fuel can only be burned for energy recovery in industrial furnaces or industrial or utility boilers, as defined in 40 CFR 260.10. ICs that cannot determine with certainty into which category a boiler or furnace falls may request a determination from the appropriate EPA regional administrator (50 FR 49193 B). Any IC that has or anticipates such a request will inform HQDA (ENVR-E) WASH DC 20310-2600 through its MACOM. Commanders of installations with boilers that cannot qualify as industrial/utility but are expected to be as efficient at combustion of hazardous waste fuel as a *large industrial boiler* may apply for interim status as an incinerator operator (40 CFR 264 and 40 CFR 265). In addition, other requirements under RCRA (40 CFR 266) pertain to specific notification, storage, and recordkeeping requirements.

(4) Used oil burned for energy recovery is regulated by subpart E of 40 CFR 266. Such used oil is termed *used oil fuel* if the used oil fuel meets the specification in 40 CFR 266.40(e), in which case only notification and records proving the fuel meets specifications are required. Any used oil fuel not meeting the specification in 40 CFR 266.40(e) is termed *off-specification used oil fuel*. Off-specification used oil fuel will be burned only in an industrial furnace or boiler identified in 40 CFR 266.41(b). Burning of off-specification used oil fuel is allowed only in an industrial or utility boiler.

d. TSCA and implementing regulations require that certain polychlorinated biphenyl (PCB) wastes and certain materials containing PCBs be disposed of by burning them in a high-efficiency boiler or an incinerator (40 CFR 761.60 and 70). Chapter 5 provides additional guidance for the disposal of PCBs.

e. CERCLA of 1980 requires immediate notice to the national response center when a release of a hazardous substance to the air occurs in an amount equal to or greater than a reportable quantity. Additional guidance on these requirements is in paragraph 8-3.

f. SARA, Title III, also known as the Emergency Planning and Community Right-To-Know Act, requires, among other things, the reporting of accidental releases of extremely hazardous substances to the environment, including releases to the air (40 CFR 355). The DA policy concerning applicability of SARA, Title III, to DA facilities is discussed in chapter 8.

g. State hazardous and toxic air pollution standards are as follow:

(1) States may be delegated the authority to enforce the Federal regulations promulgated by EPA for control of hazardous waste and other hazardous substances. In addition, States may adopt their own hazardous air pollution regulations. These regulations may be more stringent than EPA-promulgated regulations, regulate additional hazardous substances, or have other additional requirements. Consult State regulations for applicable standards.

(2) Many States have regulations for toxic air pollutants. Other states are currently developing such regulations. These regulations

are based on emission standards, ambient air concentrations, or health risk analyses and are different for each State. State toxic air pollution standards must be reviewed to determine their applicability to sources on a specific installation.

h. Standards for mobile sources (40 CFR part 85, 86, and 87) are as follows:

(1) *Commercial or commercially-adapted vehicles.* The manufacturer is required to certify these vehicles as meeting standards for the year of manufacture.

(2) *Military vehicles.* Certain military vehicles are excluded from the CAA. Those not excluded will be certified by the manufacturer as meeting standards for the year of manufacture or as exempted by EPA and the agreed-upon year for compliance.

(3) *Replacement engines.*

(a) Light duty engines must meet standards imposed at the year of vehicle manufacture.

(b) Heavy duty engines must meet standards imposed at the year of engine manufacture or as exempted by EPA and the agreed-upon year for compliance.

(4) *Inspection and maintenance.* Certain vehicles may have to meet inspection and maintenance (I/M), emission, and anti-tampering (for pollution control devices) requirements developed by State and local agencies to comply with CAA regulations. Refer to State and local regulations and/or contact the State regulatory agency for further information. This requirement is consistent with AR 750-1, paragraph 1-4h(14).

(5) *Aircraft.* Commercial or commercially adapted aircraft must comply with standards that apply to commercial aircraft in the year of manufacture (40 CFR 87).

(6) *Other guidance.* The materiel developer, as identified in AR 700-127, will include requirements for compliance with Federal environmental quality standards for mobile equipment, beginning with the concept formulation process. This is consistent with AR 750-1, paragraph 1-4p(10).

i. Construction, modification, and operation of sources of pollution generally require permits or registration. Depending upon the type of source and the kind and amount of emissions, Federal, State, and local standards might apply. Refer to State regulations for basic information. Since in some cases the permitting process can be lengthy and complex, coordination with the State regulatory agency should be initiated early in the project development.

j. To ensure compliance with the CAA, IC's will adopt the procedures outlined in paragraph 12-7a for noncompliance notification procedures.

4-3. Technical assistance

a. *Coordination.* Technical assistance from USAEHA on health and welfare aspects of air pollution can be obtained through MACOMs to Commander, USAEHA, ATTN: HSHB-ME-A, Aberdeen Proving Ground, MD 21010-5422, or for the ARNG, through the Commander, ARNG Operation Activity Center, Bldg. E6180, ATTN: NGB-ARI-E, Aberdeen Proving Ground, MD 21010-5420. Specific services available from USAEHA are—

(1) Determination of pollutant emission data, operating criteria, and performance standards for air pollution abatement equipment.

(2) Consultation on current Federal and State air quality regulations, standards, and monitoring requirements.

(3) Evaluations of source and ambient air to show compliance of existing sources with air quality or hazardous waste regulations and standards or to determine if emissions present a health hazard.

(4) Assistance in predictive modeling and collection and interpretation of air quality data to develop EAs, EISs, and to assist in preparation of air pollution related permit applications.

(5) Review of designs for air pollution controls to be installed in new, modified, or existing sources.

(6) Consultative support in setting up and maintaining vent emission, inspection, and maintenance programs.

(7) Review of environmental documents (for example, EAs, EISs, permit applications) to ensure that air pollution health issues have been addressed.

b. EPA. EPA has 10 regional offices that can provide guidance on Federal and State standards and regulations. They are as follows—

- (1) *Region 1. Maine, Massachusetts, New Hampshire, Rhode Island, Connecticut, Vermont:* JFK Federal Bldg., Boston, MA 0203. Telephone: 617-565-3715.
- (2) *Region 2. New Jersey, New York, Puerto Rico, Virgin Islands:* 26 Federal Plaza, New York, NY 10278. Telephone: 212-264-2525.
- (3) *Region 3. Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia:* 841 Chestnut Street, Philadelphia, PA 19107. Telephone: 215-597-9800.
- (4) *Region 4. Alabama, Georgia, Florida, Mississippi, North Carolina, South Carolina, Tennessee, Kentucky:* 345 Courtland Street NE, Atlanta, GA 30365. Telephone: 404-347-4737.
- (5) *Region 5. Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota:* 230 S. Dearborn Street, Chicago, IL 60604. Telephone: 312-353-2000.
- (6) *Region 6. Arkansas, Louisiana, Oklahoma, Texas, New Mexico:* 1201 Elm Street, Dallas, TX 75270. Telephone: 214-767-2600.
- (7) *Region 7. Iowa, Kansas, Missouri, Nebraska:* 726 Minnesota Avenue, Kansas City, KS 66101. Telephone: 913-236-2800.
- (8) *Region 8. Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota:* One Denver Place, 999 18th Street, Suite 1300, Denver, CO 80202-2413. Telephone: 303-293-1603.
- (9) *Region 9. Arizona, California, Hawaii, Nevada, Pacific Islands:* 215 Fremont Street, San Francisco, CA 94105. Telephone: 415-974-8071.
- (10) *Region 10. Alaska, Idaho, Oregon, Washington:* 1200 Sixth Avenue, Seattle, WA 98101. Telephone: 206-442-5810.

Chapter 5 Hazardous Materials Management Program

5-1. Scope

a. Army managers will control hazardous materials to minimize hazards to public health and damage to the environment. The objectives below are needed to control these materials—

- (1) Develop and procure material in such a way as to minimize public health and environmental hazards during—
 - (a) Research.
 - (b) Development.
 - (c) Testing.
 - (d) Production.
 - (e) Use.
 - (f) Storage.
 - (g) Ultimate disposition.
 - (2) Limit use of hazardous material to the maximum extent practicable. The least hazardous material that is still effective for its intended purpose will be used to accomplish the mission.
 - (3) Employ procedures that provide the greatest safety during storage, use, and disposal of hazardous materials.
 - (4) Develop safe, environmentally sound methods to store and ultimately dispose of hazardous materials. These materials may be either inherently hazardous or potentially dangerous because of the quantities involved.
 - (5) Provide appropriate training to persons who manage, use, store, and ultimately dispose of hazardous materials.
- b. This chapter implements—
- (1) FIFRA, as amended.
 - (2) TSCA of 1976 and implementing regulations of 40 CFR part 761.
 - (3) Subtitle I of RCRA of 1976, as amended.
 - (4) Sections 101(14) and 102 of CERCLA of 1980 as amended by the SARA of 1986.
 - (5) DOD Directive 6050.8, 27 February 1986.
 - (6) DOD Directive 4210.15, 27 July 1989.
 - (7) 10 USC 2692.

c. This chapter references OSHA's hazard communication and hazardous waste operations and emergency response standards of SARA, Title III, the Emergency Planning and Community Right-to-Know Act of 1986, and hazardous materials transportation laws and regulations.

d. Detailed guidance on spill prevention and contingency plans for oil and hazardous liquid substances appears in chapter 8.

e. Protection of personnel working with or near hazardous materials is covered in AR 40-5 and AR 385-10.

5-2. Hazardous materials management program requirements

The Army will—

- a. Ensure the best management practices for all hazardous material, including but not limited to the research, development, procurement, production, use, handling, storage, and ultimate disposition of such material.
- b. Give priority to establishing a hazardous material management program that protects public health and the environment, and that reduces the need for corrective action.
- c. Comply with environmental quality policies and procedures as specified in Army regulations; comply with those standards prescribed by applicable Federal, State, interstate, and/or local authority to control hazardous materials and hazardous substances.
- d. Use nonhazardous or nontoxic material substitutes to the maximum extent practicable, consistent with waste minimization programs of Federal and State laws and regulations.
- e. Conserve resources to the maximum extent practicable. Manage hazardous materials by using methods such as, but not limited to—

- (1) Process substitution.
- (2) Materials recovery.
- (3) Recycling.
- (4) Re-use.

f. Program and budget resources to effectively manage and control hazardous material.

g. Determine the requirement for environmental documents per AR 200-2, as a result of assessing actions that—

- (1) Implement the requirements of this regulation.
- (2) Could be controversial.

h. Comply with the requirements of TSCA and Federal regulations of 40 CFR part 761 on the manufacture, import/export, processing, or storage of chemical substances. This includes requirements for notification, recordkeeping, and reporting. Asbestos notification and reporting requirements are set forth in chapter 10.

i. Comply with AR 700-141.

5-3. Management of hazardous material

a. As an integral part of meeting the Army mission to provide for defense, hazardous material will be managed so as to incur the lowest practical life-cycle cost while protecting human health and the environment. Army components will pursue all reasonable actions to avoid or reduce the use of hazardous material and the generation of hazardous waste. Where hazardous material is needed, users will adhere to all applicable Federal and State regulations and DOD and Army policies on the management of hazardous material. In the absence of regulations, users will apply the best available technology or management in the use, handling, and disposal of hazardous material.

b. Hazardous material management will be considered an integral part of the Army HAZMIN program (para 6-6).

c. Decisions pertaining to use and management of hazardous materials will be based on analysis of the costs, benefits, and alternatives over the life cycle of the decision. This life cycle begins at the conceptual stage of a project or operation and extends as long as the actual material or its aftereffects incur a cost. Cost analysis will begin at the earliest possible stage of the process and be modified when better information becomes available. The depth of economic analyses used should match the magnitude of the decision being made. Analyses may include intangible factors.

(1) Costs incurred over the life cycle of the decision include, but are not limited to, those encountered in: acquisition, manufacture, supply, use, storage, treatment, recycling, emission control, training, work place safety, medical monitoring, regulatory overhead, spill contingency, disposal, and liability.

(2) Alternatives include, but are not limited to: substituting less hazardous or nonhazardous material, modifying processes or procedures, restricting user inventory, reducing consumptive use, direct ordering, extending shelf life, regenerating spent material, downgrading and reusing spent material, using waste as raw material in other manufacturing, and combinations of the above.

(3) Intangible factors include but are not limited to: meeting a defense goal, public concern, possible new laws, and the potential for long-term environmental and human health degradation.

d. Where a choice exists to use a more hazardous or less hazardous material to perform the same function, the less hazardous material will be used unless the life-cycle analysis clearly dictates otherwise.

e. Hazardous material issues involve support organizations as well as direct users. Guidance on how to deal with functional area matters involving hazardous materials will be included in the appropriate regulations for any organization's operation. Functional areas in which hazardous material issues must be considered, and guidance or action applied, include but are not limited to: budget and fiscal planning; legal support; research and development; weapons system acquisition; weapons system maintenance; material and performance specifications and standards; design handbooks and technical manuals; maintenance and repair procedures; industrial processes; procurement policy; contracting provisions; new material identification; public works operations; construction; management of munitions, chemical agents, and propellants; personnel support for medical and other personnel; SOH; transportation; supply; logistics analysis; warehousing; distribution; recycling; disposal; spill prevention; control and cleanup; contaminated site remediation; staffing; education and training; information exchange; public affairs; and general administration.

5-4. Storage and disposal of nondefense toxic and hazardous materials

Section 2692 of Public Law 98-407 (10 USC 2692) (see also para 1-35a(6)) states—

"a. (1) Except as otherwise provided in this section, the Secretary of Defense may not permit the use of an installation of the Department of Defense for the storage or disposal of any material that is a toxic or hazardous material and that is not owned by the Department of Defense.

(2) The Secretary of Defense shall define by regulation what materials are hazardous or toxic materials for the purposes of this section, including specification of the quantity of a material that serves to make it hazardous or toxic for the purposes of this section. The definition shall include materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of the Act (42 U.S.C. 9602) and shall include materials that are of an explosive, flammable, or pyrotechnic nature. b. Subsection a. does not apply to: (1) The storage of strategic and critical materials in the National Defense Stockpile under an agreement for such storage with the Administrator of General Services; (2) The temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal law enforcement in storing or disposing of explosives when no alternative solution is available, if such storage or disposal is made per an agreement between the Secretary of Defense and the head of the Federal agency concerned; (3) The temporary storage or disposal of explosives in order to provide emergency life-saving assistance to civil authorities; (4) The disposal of excess explosives produced under a Department of Defense contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements; (5) The temporary storage of nuclear materials or non-nuclear classified materials per an agreement with

the Secretary of Energy; (6) The storage of materials that constitute military resources intended to be used during peacetime civil emergencies in accordance with applicable Department of Defense regulations; and (7) The temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency. c. The Secretary of Defense may grant exceptions to subsection a. when essential to protect the health and safety of the public from imminent danger if the Secretary otherwise determines the exception is essential and if the storage or disposal authorized does not compete with private enterprise. (Note: Installations will submit a written request through command channels to HQDA (DALO-EOD) for an exception to this statutory requirement). (1) The Secretary may assess a charge for any storage or disposal provided under this section. Any such charge shall be on a reimbursable cost basis. (Note: The use of DERA funds for this purpose is prohibited (para 9-4c(13) of this regulation). (2) In the case of storage under this section authorized because of an imminent danger, the storage provided shall be temporary and shall cease once the imminent danger no longer exists. In all other cases of storage or disposal authorized under this section, the storage or disposal authorized shall be terminated as determined by the Secretary (of Defense)."

5-5. Pest management program

a. Army activities will establish and maintain efficient, effective, safe, and environmentally sound pest management and surveillance programs per AR 420-76. These programs will safeguard health and morale, and protect equipment, supplies, and facilities. Professional pest management personnel or trained and certified pesticide applicators will manage these programs.

b. The principle of integrated pest management will be used in all pest management programs. Use of integrated pest management procedures will reduce the amount of pesticides used. When pesticides are applied, only Federal or State registered products will be used; such use will be according to current EPA registration, label directions, or other directives regulating their use.

c. Storage, handling, use, and disposal of pesticides and pesticide-contaminated material will conform to appropriate regulations. Only personnel trained and/or certified under the DCP plan for certification of pesticide applicators will apply or supervise the application of pesticides. Contract pesticide applicators will conform with the requirements set forth in AR 420-76.

d. Policies, procedures, and environmental aspects of the Army pest management programs and training and certification requirements for personnel involved with pest application are in AR 420-76. More requirements are in AR 420-74 and AR 40-5. Procedures for the disposal of pesticides that are considered a hazardous waste are covered in chapter 6 of this regulation.

5-6. Polychlorinated biphenyls

a. Handling, use, storage, and disposal. PCBs and PCB-contaminated material may be referred to the servicing DRMO. Handling, use, storage, and disposal of PCBs, PCB-contaminated items, and PCB items (items or equipment containing PCBs) will be per Federal requirements of—

- (1) TSCA, as amended.
- (2) Other applicable Federal environmental statutes.
- (3) 40 CFR part 761.
- (4) 40 CFR part 268.
- (5) 40 CFR 761.120.

b. Records pertaining to disposition of PCBs.

(1) The IC will ensure that records are developed and maintained on the disposition of PCBs and PCB-related items if the installation used or stored, at any time—

(a) At least 45 kg (99.4 pounds) of PCBs contained in PCB containers; or

(b) One or more PCB transformer(s), or

(c) Fifty or more PCB large high- or low-voltage capacitors.

(2) These records are required by 40 CFR part 761 and form the basis for an annual document prepared for the IC July covering the previous calendar year. Installations will maintain annual documents on file for a period of at least 5 years after the facility ceases using or storing PCBs.

c. **PCBs and PCB items located OCONUS.** PCBs and PCB items located OCONUS will remain under the control of U.S. military forces. Control means being responsible for the use of PCBs and PCB items, including requirements for recordkeeping, reporting, notification, labelling, safe storage, inspection for leaks, rapid cleanup of spills, inventory, and disposal. The control of PCBs and PCB items should be consistent with applicable SOFAs or other OCONUS stationing agreements. In the absence of any such agreement, the host nation laws will be respected. If PCBs are not addressed in these documents, the requirements of this chapter will apply. Proper disposal may require retrograding the PCB wastes to an approved disposal facility in the U.S. unless a treatment or disposal facility exists in the host nation that is authorized, permitted, licensed, or registered by the host nation to manage PCBs. The need for environmental documentation pursuant to the requirements of NEPA and AR 200-2 will be considered to determine the best and most cost-effective means of disposal.

d. **Reporting.** To ensure compliance with TSCA, ICs will adopt the procedures outlined in paragraph 12-7a for noncompliance notification procedures.

5-7. Underground storage tanks (USTs)

The Army UST program requires compliance with the most stringent Federal, State, local, host nation, and Army requirements. Under Subtitle I of RCRA, EPA promulgates regulations for managing USTs, including notification requirements for new and existing USTs containing regulated substances (petroleum products or hazardous substances defined in section 101(14) of CERCLA, excluding any substance regulated as a hazardous waste under RCRA). An UST is one tank, or a combination of tanks including associated piping, that stores regulated substances and whose volume is 10 percent or more below the surface of the ground. The categorical exclusion given to heating oil tanks under Subtitle I is not recognized under Army policy.

a. **OCONUS USTs.** OCONUS commands will comply with the substantive requirements of Federal regulations for USTs, plus the more stringent of Army or host nation requirements.

b. **Notification.** Notification for existing and new USTs will be made to appropriate State or local agencies and to USATHAMA.

(1) **State or local agency notification.** For existing USTs, notification was required on or before 8 May 1986. For new USTs, notification must be made within 30 days of bringing the tanks into service. EPA Form 7530-1 and addresses for appropriate notification agencies are in 40 CFR part 280 appendixes I and II.

(2) **HQDA notification.** MACOMs will provide inventories for existing, new, and replacement USTs to USATHAMA, ATTN: CETHA-EC for inclusion in an UST database. All Army tanks worldwide, including those exempt from Subtitle I requirements of RCRA, will be inventoried and entered into the database. USAEHSC will generate a leak potential index for each tank based on information in the database, to identify those posing the greatest leak risk.

c. **Army UST standards.** In the absence of more stringent Federal, State, local, or host nation guidelines, the following Army standards will be met—

(1) All new and replacement USTs will be of double wall construction with an interstitial space.

(2) The structural integrity of all new USTs will be monitored with a leak detection system within the interstitial space that will indicate the presence of leaks with an audible alarm and indicator lights.

(3) No UST is to be used to store hazardous wastes.

(4) USTs permanently taken out of service, and abandoned USTs will be removed from the ground. Exceptions to this policy for nonleaking tanks only may be granted by HQDA or the appropriate MACOM on a case-by-case basis. USTs that have leaked or are suspected to have leaked may not be closed in place. Procedures for closure in place or removal of USTs may be obtained from Commander, USAEHSC, ATTN: CEHSC-FU-S, Fort Belvoir, VA 22060-5516.

d. **New UST construction.** Per AR 710-2, appendix C, plans for new UST construction associated with POL dispensing facilities will be submitted to and reviewed by the Commander, U.S. Army General Materiel and Petroleum Activity, ATTN: STRGP-FT, New Cumberland, PA 17070-5008.

e. **Corrective actions for leaking and abandoned USTs.** Once the presence of a leak has been determined, corrective action will include appropriate coordination with local, State, and Federal agencies. In all cases, leaking tanks must be emptied, taken out of service, and removed from the ground, and the appropriate State and Federal regulatory officials must be notified. All abandoned tanks should be taken out of the ground by 1992. Exceptions to the policy of removing nonleaking and abandoned tanks may only be granted by the MACOM or HQDA. In all cases, actions to deal with leaking or abandoned tanks will be per applicable Federal and State regulations and Army policies. Corrective actions will be taken to stop the leak and to minimize environmental impact.

f. Funding.

(1) Studies to locate tanks not used since January 1984, and cleanup of contamination resulting from tank leaks (not incidental to tank replacements) that occurred prior to 1 March 1986 are eligible for DERA funding. The requirement for DERA funds should be identified in the IRP per Army Budget Guidance, Volume II.

(2) All other UST requirements are to be programmed against operating funds. Those funds needed to attain compliance with UST requirements (such as all cleanup costs not eligible under DERA) should be identified in the special display (Tab A-3, Environmental Management Program) of section V.D. of Army Budget Guidance, Volume II. Noncompliance requirements (such as the need for recurring testing) will be programmed with routine operating funds.

(3) DERA funding from DOD for UST projects is not expected to compete well with other DERA requirements. Upon receipt of the MACOM POM submissions, AEO will automatically include in the RPMA requirements those unfunded UST projects that have not been allocated DERA funding. Until such time that DERA funds are available for UST cleanup, RPMA funding will be used; however, specific limitations on DERA funding for USTs should be noted, (see paras 9-4b(1)(j), (k), (l), 9-4b(2), 9-4c(7), and 9-4c(8)).

g. **Reporting.** To ensure compliance with RCRA, ICs will adopt the procedures outlined in paragraph 12-7a for noncompliance procedures.

5-8. Radioactive materials and nuclear accidents and incidents

a. Policies and procedures that apply to nuclear accidents and incidents are set forth in AR 40-13, AR 385-40, AR 50-5, AR 360-5, and AR 385-11.

b. Radioactive materials will be handled, used, and disposed of according to applicable regulations. Guidance for such material is found in directives governing—

- (1) Medical services.
- (2) Nuclear weapons and materiel.
- (3) Transportation and travel.
- (4) Explosives.
- (5) Safety.
- (6) Logistics.
- (7) Disposal of supplies and equipment.

c. The policies and procedures for licensing, control, labelling, storage, use, transportation, and disposal of radioactive materials and other sources of ionizing radiation are stipulated in the following—

- (1) AR 40-5.
- (2) AR 40-13.
- (3) AR 40-14.
- (4) TB MED 525
- (5) AR 385-11.
- (6) AR 385-40.
- (7) TM 3-261.
- (8) AR 385-80.

- (9) 10 CFR.
- (10) 29 CFR.
- (11) 49 CFR.
- (12) MIL-STD 129.

d. Environmental monitoring requirements for nuclear reactor facilities are set forth in AR 385-80.

5-9. Best management practices

a. Army activities will take all measures needed to prevent pollution of the environment by release of hazardous chemicals to the air, water, or land.

b. Storage facilities for chemicals hazardous to health and welfare and detrimental to the environment will be constructed and operated per 29 CFR part 1910, other applicable regulations, and DOD Manual 4145.19M2. As a minimum, the storage data below must be considered—

- (1) Compatibility of chemicals.
- (2) Ventilation.
- (3) Fire walls.
- (4) Containment.
- (5) Protection from the elements.

c. Proper safety materials and protective clothing and equipment will be kept on hand for emergency cleanup, treatment, and decontamination, when needed. Area warning signs and labels will be posted.

d. No hazardous material or its container that will cause adverse effects on the environment will be used or disposed of in a way inconsistent with—

- (1) Instructions on its label.
- (2) Disposal procedures as prescribed by proper regulations (para 6-4).

e. Excess and unserviceable hazardous chemical stocks will be disposed of as described below.

(1) Ultimate disposition of excess and unserviceable hazardous chemical stocks will either be provided by the servicing DRMO per requirements of the installation environmental office, the MACOM, and HQDA (ENVR-E) WASH DC 20310-2600, and reported on DD Form 1348-1 (DOD Single Line Item Release/Receipt Document), or will be disposed of, recycled, or reused per Federal and State laws and regulations and installation environmental policies. Proper identification and packaging requirements will conform with DLA and DOT guidelines.

(2) A detailed discussion of solid waste and hazardous waste management responsibilities for the installation and tenants, including DLA, is in chapter 6 of this regulation.

(3) Questions on the ultimate disposition of excess and unserviceable hazardous chemical stocks may be addressed to: Commander, USAEHA, Aberdeen Proving Ground, MD 21010-5422. Request for guidance should include—

- (a) National stock number (NSN).
- (b) Complete nomenclature and/or trade name.
- (c) Ingredients and their percentages.
- (d) Military specification(s).
- (e) Quantity or volume intended for disposal.
- (f) Manufacturer (include address and telephone number).
- (g) Condition of disposal item and its container.

f. The transportation of chemical warfare agents and munitions is subject to PL 91-121 (50 USC 1511-1516), AR 50-6, and AR 740-32. Chapter 216 of AR 55-355 requires that DA comply with 49 CFR parts 173, 174, 176, and 177. AR 55-228 governs water transportation of hazardous materials; TM 38-250 governs transportation of hazardous materials by military aircraft.

5-10. Technical assistance

Technical assistance on hazardous materials handling and disposal procedures can be obtained from—

- a. The DOD Pesticide Hotline, AUTOVON 584-3773, commercial 301-671-3773.
- b. The DLA Hazardous Materials Technical Center (HMTCC), 202-468-8858; or toll-free 1-800-638-8958.
- c. HQDA (DASG-PSP), 5109 Leesburg Pike, Falls Church, VA 22041-3258.

d. Commander, USAEHA ATTN: HSHB-ME-SH, Aberdeen Proving Ground, MD 21010-5422. AUTOVON 584-3651/2024, commercial 301-671-3651/2024.

e. Commander, USATHAMA ATTN: CETHA-CO, Aberdeen Proving Ground, MD 21010-5401. AUTOVON 584-2657/2434, commercial 302-671-2657/2434.

f. The EPA TSCA Hotline, 202-554-1404.

g. The EPA SARA Title III Hotline, 202-554-1411.

Chapter 6

Solid Waste and Hazardous Waste Management Program

6-1. Scope

a. This chapter defines Army policy and procedures for managing solid and hazardous waste, including resource recovery, recycling, waste reduction, and training programs under—

(1) RCRA (42 USC 3251 et seq), October 21, 1976, as amended.

(2) MMTA of 1980.

(3) DOD Directive 7310.1.

(4) Public Law 97-214, July 12, 1982, Sec 2577.

b. RCRA section 6001 [USC 6961] states—

"Each Department of the Federal Government engaged in any activity resulting in the disposal or management of solid waste or hazardous waste shall be subject to, and comply with all federal, state, interstate and local requirements, both substantive and procedural (including any requirement for permits or reporting)

c. The objectives of this chapter are to promote the protection of public health and the environment, and to conserve valuable material and energy resources. Material resources will be reused, recycled, and reprocessed whenever possible. Specific objectives of the Army solid and hazardous management programs consistent with Federal and State laws and regulations, will—

- (1) Ensure compliance with local, State, and Federal waste and hazardous waste requirements.
- (2) Assure waste management practices, to include generation, treatment, storage, disposal, and transportation, that will protect public health and the environment.
- (3) Reduce the need for corrective action through controlled management of solid waste and hazardous waste.
- (4) Minimize the volume or quantity and toxicity of waste prior to disposal using economically practicable methods that emphasize source reduction, recycling, and reuse.
- (5) Design and procure materiel so that the end item or its components can be economically restored, reconstituted, or converted to other uses. This should be done when the end item and its packaging are no longer suitable for their original purposes and may be used for other purposes before being classified as a waste.

d. This chapter replaces the policies, procedures, and responsibilities for solid and hazardous waste management set forth in AR 420-47, chapters 5 and 6, appendixes A, B, C, and the glossary.

6-2. Solid waste and hazardous waste management program requirements

a. Army, USAR, and ARNG installations and tenants (such as DLA and GOCOs) will—

- (1) Be fully aware of and comply with all applicable Federal, State, and local laws and regulations, both substantive and procedural, for generating, treating, storing, disposing, and transporting solid and hazardous waste, including the terms and conditions of State and Federal solid and hazardous waste permits and providing reports to Federal, State, and local regulatory agencies.
- (2) Ensure that program and budget requests identify resource requirements to manage solid and hazardous waste program including waste minimization, and to achieve and maintain compliance.
- (3) Encourage the use of joint or regional resource recovery or waste treatment facilities with Federal and nonfederal agencies

(including commercial waste treatment facilities) when advantageous, cost-effective, or more efficient to the Army.

(4) Minimize the generation and land disposal of solid wastes and hazardous wastes by promoting waste minimization.

(5) Prohibit the storage of hazardous waste in underground storage tanks.

(6) Conform to Federal, State, and international laws and regulations on ocean dumping of material. In the absence of published national standards, guidance on acceptable methods and maximum concentrations of hazardous substances to be discharged or disposed of should be sought from the proper authorities. Questions will be referred through MACOM headquarters (for ARNG, refer through NGB-ARI-E, Aberdeen Proving Ground, MD 21010-5420) to HQDA (ENVR-EH) WASH DC 20310-2600. For OCONUS installations, such information will be obtained by negotiation with the host nation authorities pursuant to SOFAs or equivalent.

(7) Generate, transport, treat, store, and dispose of wastes such as pesticides, hazardous chemical stocks, medical, dental, and veterinary supplies, radioactive materials, propellant, explosive, and pyrotechnic materials (PEP), explosive ordnance, or chemical warfare agents in a manner that protects public health and the environment.

b. OCONUS Army activities will comply with the requirements of this chapter, Army policies, and respect host-nation standards. OCONUS commanders will develop and maintain comprehensive programs to address specific waste management situations to protect public health and the environment.

6-3. The Resource Conservation and Recovery Act (RCRA) compliance

If noncompliance should occur, ICs will enter into compliance agreements and consent orders in good faith, to achieve RCRA compliance and initiate corrective action as soon as possible. ICs will correct any violations of Federal, State, or local regulations on solid and hazardous waste within 3 to 6 months of a written notice of noncompliance by the State or EPA (para 12-7).

a. RCRA compliance agreements

(1) ICs will negotiate Federal facility compliance agreements (FFCAs) and consent orders with realistic compliance schedules and to the extent practicable, consistent with the availability of funds and the DOD program and budget process. Commanders will assess the availability of funds to execute the requirements of the FFCA, during the negotiation process, and immediately thereafter. If a current FY shortfall is identified, the ICs must submit a request for additional funds through resource management channels. If a funding shortfall is identified in the budget or program years, commanders will ensure that adequate funds are requested in the installation/command budget request or input for the POM. EPA and State officials will be advised of any funding shortfalls consistent with notification procedures in the FFCA.

(2) EPA recognizes that Federal facilities face problems in ensuring that funds are adequate to meet environmental requirements and remedy noncompliance. However, the obligation to comply is not altered by funding considerations. FFCAs typically require the IC to seek the most expeditious means of achieving compliance and obtaining funds. EO 12088 requires the Army to ensure that sufficient funds are requested for environmental compliance through the budget process.

(3) Failure to achieve and maintain compliance could result in sanctions as drastic as shut-down orders and judicially imposed penalties. Failure to fund agreed-upon corrective measures could result in a shut-down of the offending activity and will lessen the Army's credibility, making favorable agreements more difficult to achieve in the future (para 12-7).

(4) MACOM SJAs will forward copies of draft FFCAs and consent orders through command channels to HQDA (DAJA-EL) WASH DC 20310-2210 for review with HQDA (ENVR-E) WASH DC 20310-2600 prior to signature by the IC. A brief statement explaining the problem, the history of negotiations with State or Federal regulatory agencies, and the current

compliance status should be forwarded along with the draft FFCA. Draft FFCAs will include a funding plan (cost by appropriation and FY) to bring the installation into compliance. Draft FFCAs will be coordinated with the command environmental office (for specific procedures on environmental agreements, see paras 12-6 and 12-7).

(5) ICs will ensure that projects required to comply with RCRA FFCAs and consent orders are identified in the A-106 report (para 12-11b).

(6) RCRA violations should be corrected as soon as possible after they are identified. Where RCRA violations cannot be resolved within 180 days from the date of the initial written NOV by the State or EPA, the IC will consider the need for a RCRA FFCA. The installation will seek to use a SARA section 120 interagency agreement (IAG) to address both RCRA and CERCLA investigatory and remedial activities where there are RCRA corrective actions at sites listed on the NPL or proposed for the NPL (para 9-9). At NPL sites where an FFCA is being negotiated, RCRA corrective actions will be addressed through the CERCLA clean-up process, if possible. Therefore, a separate FFCA is not normally required.

(7) If a MACOM determines that compliance cannot be achieved within the time frames stipulated in either a RCRA enforcement order or a draft compliance agreement, or within 90 days after the issuance of the enforcement order or draft compliance agreement, whichever time period is sooner, the MACOM will elevate the negotiations to HQDA (ENVR-EH) for review.

b. Notification procedures for noncompliance

(1) To ensure compliance with RCRA, ICs will adopt the procedures outlined in paragraph 12-7a for noncompliance notification procedures.

(2) AEO will advise the ACE and the DASA (ESOH) as to appropriate action concerning issues of noncompliance with RCRA.

(3) MACOMs have a continuing responsibility to ensure that installations comply with RCRA. This may require coordination with the appropriate State and EPA regional office to negotiate and resolve RCRA compliance issues.

(4) The requirements of this chapter do not affect the requirement for installations to forward other environmental agreements to HQDA (DAJA-ELD) for review and approval, prior to signature by the IC, and in some cases, also signed by the DASA(ESOH) (see para 12-6).

6-4. Hazardous waste management

a. Scope

(1) The management guidelines in this paragraph apply to developing and implementing the installation solid and hazardous waste management program.

(2) RCRA provides requirements and standards for generating, transporting, treating, storing, and disposing of hazardous wastes. States may be authorized by EPA to manage the RCRA program in lieu of EPA. To be authorized, the State programs must be consistent with the Federal program. States may be authorized to administer the program with requirements that are more stringent than those of the Federal program.

b. *The hazardous waste management plan.* The IC must ensure that a written hazardous waste management plan (the plan) is maintained to provide installation personnel with procedures and responsibilities to manage hazardous wastes, consistent with Federal, State, and local laws and regulations. The DEH will prepare the plan and provide copies to all facility personnel, including tenants, that generate, transport, treat, store, and dispose of hazardous waste. The plan will be signed by the IC and will—

(1) Include responsibilities of installation organizations and personnel in generating, transporting, treating, storing, and disposing of hazardous waste.

(2) Show EPA and State identification numbers to generate, treat, store, dispose of, transport, and offer for transportation hazardous wastes.

(3) Specify the type and quantity of hazardous waste for each hazardous waste generating activity, including tenants.

(4) Describe waste minimization projects, funds, and savings.

(5) Identify the location of all hazardous waste storage, treatment, and disposal units.

(6) Describe installation procedures to treat, store, dispose of, transport on-post, or offer for transport off-post (including preparing DD Form 1348 and EPA/state hazardous waste manifests) for hazardous waste consistent with the requirements of 40 CFR parts 260-271, including requirements of a RCRA permit.

(7) Include procedures to analyze hazardous wastes consistent with the requirements of 40 CFR 264.13 and the RCRA permit.

(8) Include procedures to inspect the hazardous waste units for malfunctions and deterioration, operator errors, and discharges that may be causing—or may lead to (see also chap 8)—

(a) Release of hazardous waste constituents to the environment, or

(b) A threat to human health.

(9) Include procedures to prevent unauthorized entry to the hazardous waste units.

(10) Describe the program to train all applicable facility personnel with Federal, State, and Army requirements to ensure installation compliance with RCRA.

(11) Include procedures of the contingency plan to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. This plan must be consistent with the requirements of 40 CFR part 264, subpart D (see also chap 8).

(12) Include procedures to temporarily treat, store, dispose of hazardous waste if the use of existing facilities is unavailable. This will identify temporary storage facilities, alternate disposal sites, and handling procedures.

(13) Include a copy of the RCRA operating record, if applicable.

(14) Include a copy of the RCRA permit, if applicable.

(15) Reference the location of the SPCCP and ISCP, and summarize emergency information for reporting and containing spills and illegal dumping (see also chap 8).

(16) Include references for obtaining technical information on determining if a waste is hazardous; the location of off-site RCRA approved treatment, storage, and disposal facilities; the names of State and Federally approved hazardous waste transporters; and the names and addresses of State and Federal regulatory agencies administering the RCRA program.

c. Installation hazardous waste inventory. The DEH will conduct an annual inventory of hazardous waste (as defined in RCRA or the host nation's regulations) that is generated, treated, stored, disposed of, or transported off-site by the installation. The inventory will support the hazardous waste biennial report requirement of 40 CFR 262.41. One source of information for the inventory is the installation's health hazard inventory (HHI) of toxic chemicals required by AR 40-5. This inventory will be certified by the IC, as indicated by his or her signature and will identify—

(1) The hazardous waste generators.

(2) Names, addresses, and State/EPA identification numbers of off-site treatment, storage, or disposal facilities receiving the installation's hazardous waste.

(3) The name and EPA identification number of each transporter used for off-site shipments of hazardous waste.

(4) Description, EPA hazardous waste number (from 40 CFR part 261, subpart C or D), DOT hazard class, and quantity of each hazardous waste shipped off-site.

(5) The EPA identification number of the off-site facility to which the waste was shipped.

(6) A description of efforts undertaken during the year to reduce the volume and toxicity of waste generated.

(7) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years, beginning with calendar year 1985.

d. Hazardous waste permits. Army installations will obtain a RCRA permit to treat, store, and dispose of solid and hazardous waste, if required. When a tenant activity (such as the DLA or a GOCO) intends to operate a hazardous waste facility on an Army installation, then the installation will apply for the RCRA permit,

but the tenant (facility operator) and the Army IC (facility owner) will jointly sign the RCRA permit application.

(1) The IC with grade of colonel or higher or command of an installation employing more than 250 persons signs the RCRA hazardous waste management permit as the facility owner. The tenant will sign the permit application as the operator. For the DLA, the Defense Reutilization and Marketing (DRM) regional commander will sign as the operator.

(2) The tenant is responsible for preparing the necessary RCRA permit application information signed and completed to the IC and paying State fees associated with the processing of its portion of the permit application.

(3) The IC, or his or her designee, will serve as the principal liaison official with Federal and State regulatory agencies in obtaining a RCRA permit and RCRA permit modifications. This includes responsibility for responding to NOV's, consent orders, agreements, and related State and Federal enforcement documents that seek compliance with RCRA. The IC and facility operator, with the assistance of MACOM and ARNG environmental specialists, will determine the need for, location of, and type of permitted hazardous waste management facilities. Before the construction of new facilities, a RCRA permit must be obtained. ICs with facilities operating under RCRA interim status that are actively seeking a permit will either voluntarily submit their RCRA part B permit application or prepare their RCRA part B permit application within the time allotted by EPA or the State. RCRA closure and post-closure permits will be applied for whenever requested by EPA or the relevant State, or if determined necessary by the IC. A NEPA or State environmental document may be required before siting a DRMO facility. In this situation, DLA will function as the lead component and will prepare environmental documents in compliance with NEPA and AR 200-2, and in coordination with the IC. The environmental document must be approved and signed by the host IC or his or her designated representative per AR 200-2.

e. Hazardous waste facility projects.

(1) When an installation decides to use MCA funds to modify or construct hazardous waste treatment, storage, or disposal facilities, the following information must be included with a DD Form 1391 (Military Construction Project Data)—

(a) Determination that suitable or cost-effective facilities are not available at other nearby DOD installations, sites, or facilities.

(b) Documentation that the design capacity of the facility is sufficient to accommodate waste from nearby DOD installations, sites, or facilities, if applicable and per State and Federal RCRA requirements.

(c) Documentation that an existing or planned joint-use facility operated by DRMO will not satisfy the requirement.

(d) The economic justification of environmental compliance costs, closure costs, and post-closure maintenance and monitoring costs.

(e) Environmental documentation according to this regulation, AR 200-2, AR 415-15, and NGR 415-15.

(2) Use of DERA funds for constructing or modifying RCRA treatment, storage, or disposal facilities is restricted (see chap 9).

f. Disposal of hazardous waste.

(1) **Disposal options.** The DEH will recommend to the IC for approval the most cost-effective and efficient means of waste treatment, storage, or disposal that emphasizes waste minimization techniques such as recycling, energy recovery, and detoxification. Priority will be given to on-site waste treatment and disposal methods including constructing new, or modifying existing, waste treatment or disposal facilities such as the use of wastewater treatment plants. Disposal options will be evaluated using procedures in AR 11-28 to determine cost-effectiveness.

(2) If hazardous wastes cannot be disposed of on-site, they may enter into agreements with local, State, or Federal agencies to participate in construction of regional treatment and disposal facilities on other than Army-owned property. All such agreements will be forwarded through command channels to HQDA (ENVR-EH) WASH DC 20310-2600 for coordination with

HQDA (DAJA-ELD) for review and approval prior to signature by the IC.

(3) DRMS will be used for HWM disposal unless extenuating circumstances warrant using an alternate source. Any request to dispose of HWM outside DRMS channels will be elevated to HQDA (ENVR-EH) WASH DC 20310-2600 for review. All requests for exception to policy must specifically state that contracting and disposal criteria to be used are at least as stringent as those used by DRMS. In cases where a non-DRMS HWM disposal contract is already in place, the contract need not be cancelled. However, DRMS should be considered for use upon contract renewal.

(4) The DEH, in coordination with waste generating activities, will determine appropriate hazardous waste treatment, storage disposal options, including whether the materials to be disposed of meet the definition of a hazardous waste. The determination will be based on the definition of hazardous waste in Federal, State, local, and host nation laws or regulations. When making the determination, various exclusions should be considered: if the material can be used on-site as a direct substitute; if it is an excess material, such as paint, that has exceeded its shelf-life but can be re-certified; or if the material has exceeded its military shelf-life but not its commercial shelf-life. The material, per EPA and State requirements, will be clearly marked as either hazardous waste or marketable material before transfer to either DRMO or an off-site State or Federally approved hazardous waste treatment, storage, or disposal facility. If the IC determines that handling the hazardous waste on-site or through the servicing DRMO would be inadequate or undesirable, he or she may contract with a RCRA-permitted private company to dispose of the waste. Disposal practices will be geared toward minimizing land disposal and generation of hazardous wastes (para 6-2a(4)).

(5) Ensure that contracts for waste disposal services are consistent with Federal acquisition regulations and Federal, State, and local requirements, and include provisions for—

(a) Recycling, when markets exist.

(b) Disposal of waste generated as a result of RCRA section 3004(u) and (v) corrective actions and spill cleanups, where applicable.

(c) Waste analysis, labelling, packaging, and transport.

(6) All contracts for waste disposal, whether or not the disposal service is provided by the DRMO, must be reviewed by the installation environmental coordinator and approved by the DEH and contracting officer.

g. *Transportation of hazardous wastes.* A hazardous waste manifest (EPA Form 8700-22A) is required to transport, or offer for transportation, hazardous waste, including exports of hazardous waste from OCONUS installations, for off-site treatment, storage, and disposal (see 40 CFR part 262). The manifest designates the name of the generator, transporter, and the facility receiving the waste. The IC is considered the generator for purposes of this regulation and for completing the uniform hazardous waste manifest. The IC must ensure the hazardous wastes are received by the facility designated on the manifest. The two types of transportation for hazardous waste are—

(1) *On-post transportation:*

(a) The hazardous waste generating activity will be responsible for transporting the hazardous waste within the installation boundary, including transportation to the on-post hazardous waste unit(s) or DRMO, if located on the installation.

(b) When on-post recycling or disposal is available, the generator will legally transport wastes as directed below, complying with Federal, State, and RCRA permit conditions. Transportation routes and vehicles used for transporting hazardous waste will be selected to ensure maximum safety and to reduce the exposure in the event of an accident. Transportation routes and vehicles will be inspected by DOL to ensure compliance with Federal, State, local, and Army requirements. This applies to units and tenants on Army installations.

(c) A hazardous waste manifest is not required to transport hazardous wastes within the installation boundaries except when public roads are used. The hazardous waste generating activity

should, however, document the date, time, and location of delivery; the quantities; and the receiving official's name of the on-post facility receiving the hazardous waste.

(d) No deliveries of hazardous waste will be made without first notifying and obtaining approval from the receiving agency.

(e) The transfer of wastes from one vehicle to another or from one container to another will be minimized to reduce the potential for spills.

(f) Specific on-post transportation requirements will be addressed by the installation DOL locally via supplement to this regulation.

(2) *Off-post transportation.* The IC, acting through the DOL, is responsible for ensuring that off-post transportation complies with applicable Federal, State, and local laws and regulations, including transportation of those hazardous materials and wastes for which the DRMO or the installation has accountability and physical custody. The installation DOL (for ARNG, the State facilities management officer (FMO), or his or her designee, will arrange for proper off-post transportation of hazardous waste consistent with State, Federal and Army requirements, the hazardous waste management plan, and RCRA permit conditions. This includes signing the hazardous waste manifest and complying with the manifest system and recordkeeping requirements. The transporter must have an EPA identification number and be authorized by Federal, State, and local authorities to transport hazardous waste. For exports of hazardous waste from OCONUS installations, the manifest must show the name and address of the IC (an EPA identification number is not required) and the name, address, and EPA identification number of the facility in the United States designated to receive the wastes (40 CFR part 262, subparts E and F). The DOL will provide the appropriate transportation procedures for the hazardous waste management plan.

(3) All Federal, State, and local requirements for packaging, labelling, marking, manifests, permits, and other requirements will be met regardless of the mode of transport.

6-5. The Resource Conservation and Recovery Act (RCRA) and the National Environmental Policy Act (NEPA)

Pursuant to NEPA of 1969, environmental documentation (for example, a record of environmental consideration (REC) citing a categorical exclusion (CX)) or preparation of an EA or EIS may be necessary to address environmental issues other than those covered by EPA/State in the RCRA permitting process.

a. *Tenants on Army installations* (for example, the DLA, other Federal agencies, or GOCOs) will be required to fund and prepare the necessary environmental documentation pursuant to the requirements of NEPA and AR 200-2. The proponent will prepare the NEPA documentation per AR 200-2, and it will be coordinated with and approved in writing (on the cover sheet of the EA/EIS) by the host IC. Environmental documentation to support DLA operated hazardous waste storage facilities will be reviewed by the host installation environmental coordinator; this will also be indicated by signature on the cover sheet of the document. The IC will cooperate with the tenant in providing alternative locations on the installation, will review the environmental documentation provided by the tenant, and will ensure the judicious use of CXs supporting these facilities. The completed EA or REC will be signed by the IC indicating approval or disapproval of the proposed action. In most cases, an EA should be prepared for new facilities. When the DLA is the proponent, DOD Directive 6050.1 will be used as the guiding NEPA regulation. When a conflict arises with the proponent as to the applicability of requirements, the requirements of AR 200-2 will govern. However, review and approval of the document is also subject to Army procedures, including those defined by an Army installation. The situation in which a CX may be appropriate is if the proposed action involves establishing the facility in an area where the hazardous wastes are already located and no other installation would deliver the hazardous wastes to the storage facility. If a CX is used, it will be subject to review and written concurrence by the DEH, SJA, and

installation environmental coordinator, and approved by the DEH. DLA representatives will also sign as approving officials.

b. When EAs conclude with a finding of no significant impact (FNSI), the FNSI should be made available to the affected or potentially affected or interested public through local publication of the FNSI per the requirements of AR 200-2 and Council on Environmental Quality (CEQ) regulations at 40 CFR 1506.6. A local press release should also be issued.

c. If an EIS is deemed appropriate, and more than one installation is being considered as an alternative site, then each of the involved ICs will sign the EIS as approving officials (in addition to DLA or the tenant signing as the proponent).

d. The IC will ensure that public involvement procedures for NEPA documentation (EA and EIS), including public scoping meetings and public hearings, conform to the requirements of AR 200-2, NEPA, NEPA-implementing regulations, and this regulation. The State or Federal regulatory agency responsible for issuing the RCRA permit will sponsor the public comment period and the public hearing, and will prepare the responsiveness summary. Army officials may participate at the public meetings and public hearings. The IC should request the State or Federal regulatory agency to combine the public review of the FNSI and the public review of the draft RCRA permit application.

6-6. Waste minimization

a. General.

(1) The generation of hazardous waste by Army activities results in both short and long term liability in terms of costs, environmental damage, and mission performance. Accordingly, Army policy is to reduce the quantity or volume and toxicity of hazardous wastes generated by Army operations and activities wherever economically practicable or environmentally necessary. Emphasis will be placed on source reduction methods such as hazardous materials substitution. Where source reduction is not feasible or economically practicable, the Army will promote recycling, on-site treatment, and other alternatives such as materials recovery, process change, the use of minimum packaging, increased use of returnable or reusable containers, source separation for recycling, segregation of wastes, reuse, and treatment, to reduce the quantity or volume and toxicity of hazardous wastes.

(2) Although the wastes listed in b(1) below will not be counted against the 50 percent reduction goal, they will be subject to all HAZMIN requirements of this regulation, including the reporting requirements of c below.

b. Goals. The Army's HAZMIN goals are to—

(1) Achieve a 50 percent reduction of the quantity of hazardous wastes generated by 31 December 1992, when compared to a baseline of calendar year 1985. Quantities not to be counted against this goal are—

(a) Wastes that are not addressed by RCRA and Federal implementing RCRA regulations. For instance, a waste that is listed as hazardous under State law but that is not considered a hazardous waste under Federal law or regulation. However, the Army requires minimization of State or host nation listed hazardous wastes.

(b) One-time generation of hazardous wastes (e.g., hazardous wastes from building demolition, IRP clean-ups, retirement of munition stockpiles, EOD activities, and spill clean-ups).

(c) Hazardous waste listed after 31 December 1985, by EPA or states with approved RCRA programs.

(d) Hazardous wastes received from off-site sources for storage in DRMO hazardous waste storage facilities on an Army installation.

(2) Incorporate HAZMIN considerations and techniques into the overall life cycle of present and future hazardous materials used by the Army, including the design, development, and maintenance of new and existing weapons systems and the costs of waste disposal.

(3) Institute "front-end" reduction of hazardous waste generation and disposal by using methods such as, but not limited to,

hazardous materials substitution, closed-loop (in process) recycling, process change, proper hazardous waste identification, delisting, and waste segregation.

(4) Give priority to on-site recycling and treatment methods over off-site recycling and treatment methods wherever economically practicable.

(5) Pursue research and development efforts towards new and improved HAZMIN techniques and processes.

(6) Reduce the volume or quantity of hazardous waste listed paras 6-6b(1)(a) and (c) above by 50 percent, and reduce the toxicity within 5 years after listing by the State/EPA.

(7) Reduce the volume or quantity and toxicity of hazardous wastes generated by an installation for the first time, after 31 December 1985, such as a result of new processes, new facilities, changes in mission.

2. Reporting requirements

(1) *Federal/State reporting requirements.* Each IC that manages hazardous waste must submit a biennial report using EPA Form 8700-13A/B by 1 March of each even numbered year, to the appropriate State or EPA regional administrator, depending upon whether the State has an EPA approved RCRA program (see 40 CFR parts 262.41, 264.75, and 265.75). The biennial report includes requirements for reporting HAZMIN efforts, and a certification that a HAZMIN program is in effect, and reflects information covering the previous calendar year. (States may require that this report be submitted annually.) The biennial report must include—

(a) A description of the efforts undertaken during the year to reduce the volume and toxicity of hazardous waste generated.

(b) A description of the changes in volume and toxicity of waste actually achieved during the year, in comparison to previous years, beginning with 1984, unless information exists for years prior to 1984.

(2) DOD/Army reporting requirements.

(a) Some of the information required by the EPA biennial report described above is also used as a part of the Defense Environmental Status Report (DESR).

(b) All projects competing for DERA funding for HAZMIN program, including studies, plans, construction, and equipment procurement, must be included in the A-106 report and must be submitted to HQDA (ENVR-EH), WASH DC 20310-2600 through Commander, USATHAMA, ATTN: CETHA-RM, on the same semiannual schedule using the same EPA Form 3500-7 (Federal Agency Environmental Plan—Project Report) (see fig 6-1 for an example) or the automated 1383 system as other A-106 pollution abatement projects submitted to EPA. Copies of EPA Form 3500-7 can be obtained from your EPA regional office. ICs will provide a narrative description of the project that describes the savings and the need for the project. In completing the EPA Form 3500-7, the narrative will always start with the word *minimization* and a period. Begin the narrative by stating the expected percent reduction. Percent reduction should be listed as a percent of the total hazardous waste disposal before the project, if possible. Identify the waste stream(s) to be reduced, and describe the facility or equipment that will cause the reduction. Where projects save money beyond amortization, the estimated extra annual savings will be stated in the narrative. For example, "This project will save \$10,000 per year above capital recovery." For studies, describe the scope and estimate the amount of waste reduction needed to pay back the cost of the study based on an estimate of the average disposal cost for the waste under study. For example, "100,000 gallons of waste reduction at \$2 per gallon would pay back the cost of this study." USATHAMA will ensure the EPA forms are technically complete and conform to the guidance of this regulation. Identification of requirements in a timely manner is essential to gaining funding support. For example, HAZMIN projects to be funded in the FY92 DERA budget must be included in the A-106 report not later than the 15 May submission (see para 12-11b(2)(c)). HAZMIN projects will be proved/disapproved by HQDA, (ENVR-EH), as part of the draft annual DERA workplan (see para 9-6b(2)(d)).

(c) MACOMs will submit an annual report by 1 March, using EPA Forms 8700-13A/B to HQDA (ENVR-EH), WASH DC 20310-2600 in order for HQDA to monitor Army-wide use of hazardous materials; monitor generation of hazardous waste; assess Army-wide progress towards achievement of the hazardous waste generation 50 percent reduction goal; develop and prepare a budget for conducting studies; and procure equipment. Data on quantity of wastes will be reported in metric tons. The report summarizes trends in hazardous waste generation, including minimization initiatives and achievements. OCONUS commands will complete parts I and II of EPA Form 8700-13A/B, using the title *Waste Minimization*, and the host nation definition of hazardous waste, in lieu of the Federal definition in 40 CFR part 261.3. The data required by this report are the same data as required in the biennial report submitted to EPA (para 12-11b).

(d) In reporting to HQDA, all hazardous wastes must be characterized by the hazardous waste descriptions and codes provided by 40 CFR part 261. OCONUS commands will identify hazardous wastes as defined by host nation laws and regulations, except where the hazardous wastes are shipped to the United States for final treatment, storage, or disposal. In this case, exports of hazardous waste will be identified by the definition in 40 CFR part 261 (40 CFR part 262, subparts E and F).

d. Audits, inspections, or surveys.

(1) HQDA and MACOMs may conduct audits, inspections, or surveys for the purpose of evaluating installation HAZMIN programs. Army personnel or contractors assigned this responsibility will identify to the IC potential initiatives and will recommend high priority actions for minimizing hazardous wastes.

(2) Installations will conduct audits and other activities to identify opportunities for HAZMIN and land disposal reduction of hazardous wastes. Recommendations will be provided to the IC, in order of decreasing minimization value, for determining action. Recommendations may include recycling and resource recovery opportunities, specific process changes, or installation-wide efforts. Examples of installation-wide minimization efforts are listed below, in order of priority—

(a) *Chemical identification.* Perform chemical analyses on all waste streams to properly classify them and verify whether or not waste streams should be classified as hazardous.

(b) *Hazardous waste inventory.* Maintain an accurate hazardous waste inventory of volume or quantity, including data tabulated by waste type and generating process.

(c) *Technology transfer.* Promote communication between installations, as well as installation tenants, to facilitate the transfer of HAZMIN operational practices and technologies within the Army.

(d) *Segregation of hazardous wastes.* Ensure installations avoid commingling of hazardous wastes by implementing appropriate waste management, treatment, storage, and disposal procedures.

(e) *Material substitution.* Implement programs to reduce or eliminate hazardous waste generation by substituting nonhazardous or less hazardous materials.

(f) *Control purchase of hazardous materials.* When hazardous materials must be used, implement procedures designed to ensure that only the necessary volumes and quantities are ordered and maintained in installation inventories.

(g) *Employee awareness and suggestion programs.* Design and implement programs to take advantage of the knowledge of operational personnel in those cases where the hazardous waste generation occurs in processes/activities that are unfamiliar to environmental personnel.

(h) *Clearinghouse.* Information exchange will identify HAZMIN methods (successes and failures) with other installations and to HQDA (ENVR-EH), WASH DC 20310-2600 for establishing a clearinghouse on waste minimization (para 1-14d(4)).

e. Funding.

(1) The MACOM/IC must program, budget, and fund HAZMIN programs using appropriate operating accounts (for example, the Army industrial fund (AIF), O&M, and RDTE), procurement accounts and other available resources.

(2) Other possible sources of funds to financially support HAZMIN programs include—

(a) *The defense productivity enhancing capital investment program (PECIP), as explained in AR 5-4, in cases of projects that involve a return on investment of 1 year or less.* Funds under this program include the quick return on investment program (QRIP) and the PECIP.

(b) *The DERA for research, development, studies, technology demonstrations, and the purchase of equipment, which will reduce hazardous waste generation (para 9-4b(2)(a)).* MACOMs may annually request a limited amount of funds to initiate and improve HAZMIN projects. Expenditure of these funds is subject to specific requirements and authorized by OSD. To qualify for DERA, a project request for capital investment must include an economic analysis consistent with the requirements of DOD Instruction 7041.3. A minimization project does not have to save money; however, it does have to reduce disposal. If it does not save money, then it must be justified based on intangible benefits consistent with DOD Instruction 7041.3. In justifying a HAZMIN project, the cost of future liability may be included pursuant to the risk and uncertainty analysis criteria of DOD Instruction 7041.3. An academically rigorous technique must be used. MACOMs will rank all minimization projects in order of decreasing minimization value. Economic analyses will be provided to HQDA (ENVR-EH) WASH DC 20310-2600 with a completed EPA Form 3500-7 (para 6-6c(2)(b)).

(c) *Recycling proceeds.* DLA is directed to return 100 percent of the proceeds from sales of recyclable materials to the installation budget clearing account **F3875 (para 6-14b). Proceeds from the sale of recycled hazardous materials, hazardous wastes, and solid wastes will be dedicated principally to improving environmental programs and projects, including HAZMIN.

f. Incentives. Recommended incentive programs include the following—

(1) Individual or activity recognition such as plaques, certificates, trophies.

(2) Both military and civilian employees may receive cash incentive awards for their suggestions, inventions, or scientific achievements which result in tangible or intangible benefits to the HAZMIN program or other Army/Federal Government programs. Civilian employees may also receive cash awards for their special acts or services which result in tangible/intangible benefits to the Government.

(3) Value engineering program for contractor type of operations.

6-7. Disposal of munitions and ordnance

This establishes Army policies for the application of hazardous waste management requirements of 40 CFR parts 260-271 to the demilitarization of conventional military munitions and ordnance (bulk PEP, guided missiles and nuclear weapon conventional explosives, and nontoxic chemicals (bulk and munitions)), including open burning/open detonation (OB/OD) training activities.

a. Munitions and ordnance are not considered waste as long as they are within their life cycle and may be used for their intended purpose. The life cycle of munitions and ordnance includes the manufacture and remanufacture of PEP and munitions items (including load, assembly, disassembly, and pack). It also includes storage and maintenance.

b. The following categories of munitions and ordnance are not waste—

(1) Serviceable.

(2) Not serviceable, but safe to handle and store, and accounted for it stored together with munitions or ordnance in the field service account.

(3) Munitions and ordnance which are subject to management and control procedures providing a degree of control by the DOD over storage and disposition that is as high as or higher than that exercised over munitions and ordnance in active service.

c. Military munitions or ordnance are not waste when reprocessed by the Army.

d. Munitions and ordnance become waste when specifically designated as waste by Army officials. The following actions are examples of specific designations as waste—

- (1) Disposal by transfer to a commercial recycler.
- (2) Disposal of residues from open detonation or other thermal treatment.
- (3) Disposal of items resulting from treatment by any method that has the effect of transforming the treated item into a non-munitions or non-ordnance item that is no longer subject to Army management and control.
- (4) Generation of PEP and munitions manufacturing byproducts (such as line rejects, off-specification items, and wastewater contaminated with explosive).

e. The point at which munitions or ordnance become waste defines the point at which RCRA hazardous waste management requirements apply. This is normally when the ammunition transfer record (DD Form 1348-1, DA Form 4508 (Ammunition Transfer Record) or equivalent) is signed indicating the receipt of the munitions or ordnance at a demilitarization facility (that is, open burning grounds, open detonation area, incinerator, or other treatment unit).

f. Assignment of munitions and ordnance to the special defense property disposal account (SDPDA) or centralized demilitarization account, or their classification as unserviceable, are not designations of such items as waste.

g. In special circumstances, military munitions and ordnance could be declared a waste prior to demilitarization. MACOMs will provide justification for this declaration to HQDA (DALO-SMZ) WASH DC 20310-0540 for approval beforehand. Once such a decision is made and formally conveyed to the MACOM, the items will be managed in conformance with RCRA requirements and in strict accordance with existing Army regulations and policies.

h. RCRA hazardous waste management requirements apply to disposal operations (including demilitarization process). Any remaining residue (such as ash or sludge) is subject to regulation and must be handled per applicable hazardous waste management regulations, if it is listed by Federal regulation in 40 CFR part 261 or exhibits a hazardous waste characteristic.

i. RCRA hazardous waste management requirements do not apply to—

(1) Explosive ordnance disposal (EOD) sites used solely for training, emergency operations, and range clearance operations. Emergency EOD operations are non-routine and are conducted to abate an imminent and substantial endangerment to public health, safety, or property, as defined in AR 75-14 and AR 75-15. Therefore, RCRA does not apply to emergency EOD operations. A RCRA emergency permit is, however, required for EOD operations that extend beyond an immediate response if a RCRA permitted or RCRA interim status facility is not available. In such instances, EOD units will provide a description of the waste to be destroyed to the supporting installation for RCRA permit purposes. EOD operations that, in support of an installation, destroy specifically designated waste material on a routine basis, will accomplish this at a RCRA permitted or RCRA interim status site provided by the supporting installation.

(2) OB/OD training activities on training ranges, impact ranges, firing ranges, or the equivalent. Training activities include but are not limited to training EOD personnel, training soldiers to fire/operate weapons and weapons systems, and training fire-fighting personnel at fire training pits.

(3) Burning excess propellant bags/increments incidental to the training mission, either at the firing points or at designated areas on the ranges. Although RCRA permits are not applicable, and to ensure environmentally sound practices, the use of pans is encouraged, if feasible, at both the firing points and designated areas on the ranges. Residues from both the pans and the ground will be analyzed periodically to determine if they are a hazardous waste as defined in 40 CFR part 261, and will be managed accordingly.

(4) Fire training exercises.

(5) Installation range clearance operations of conventional ordnance per AR 385-63.

(6) Clearance operations of conventional ordnance from private lands, once under military control. These operations will be conducted per AR 385-64.

j. The corrective action requirements of RCRA sections 3004(u) and 3004(v) do not apply to the activities of paragraph 6-7i above: If the IC or a State or Federal regulatory official determines that a release is occurring from the ranges, the IC will conduct an investigation to determine the nature and extent of contamination. The commander will then develop a schedule and a plan for corrective action for coordination with State and Federal regulatory officials.

k. Obsolete or off-specification materials that are both DOT class C and classified as type 1.4 (that is, small arms ball ammunition of calibers up to and including 0.50) are not reactive within the meaning of RCRA. Therefore the disposal of such ammunition is not subject to hazardous waste management requirements.

l. DOD is the recognized national expert in matters relating to the safe handling and disposition of military munitions and ordnance, including PEP. DOD and Army regulations governing transportation, storage, maintenance, inspections, safety, and security in handling of military munitions and ordnance are very stringent. They provide maximum protection for personnel and the environment. Strict adherence to DOD and Army regulations in support of Army missions is mandatory.

m. Installations will adhere in a proactive manner to this regulation and to appropriate State and Federal RCRA permit requirements governing demilitarization activities for conventional munitions and ordnance. Army ICs and managers should fully apprise the concerned agencies of existing Army procedures that provide protection of personnel and the environment and avoid unnecessary administrative burdens or operational requirements that could detract from the military mission of the Army.

n. In permit discussions with regulating agencies where adherence to Army policy and procedures cannot be agreed upon, MACOM SJAs will elevate the issue to HQDA (DAJA-EL) WASH DC 20310-2210 for resolution.

6-8. Explosive ordnance and propellant, explosive, and pyrotechnic (PEP) materials

a. Policies and procedures that apply to explosive ordnance and PEP materials are set forth in AR 75-1, AR 75-14, AR 75-15, AR 385-60, AR 385-64, and the AR 755 series regulations. These ARs give guidance on disposal of supplies and equipment. Every effort will be made to dispose of these materials so as to protect human health and environment. The safety of ammunition demilitarization, EOD, and technical escort emergency operations personnel will be considered.

b. Open burning or open detonation of unserviceable or obsolete PEP may be done only in non-urban areas. Open burning or open detonation will be under conditions acceptable to regional EPA officials and appropriate State air pollution control authorities and Army policy. Notice of restrictions or requests for assistance will be submitted through command channels to HQDA (ENVR-E) WASH DC 20310-2600. Under RCRA, permits may be required for those operations where treatment or disposal of munitions and ordnance is considered waste management, as well as for storage prior to thermal treatment. Open burning of waste PEP materials associated with troop training activities at the field firing point is not considered to be hazardous waste treatment, but an integral part of the training mission. However, these activities will be conducted so as not to endanger public health or the environment.

c. ICs and State adjutants general will report to DA through command channels on accidents or incidents associated with the handling, use, inventory, or disposal of explosive ordnance and PEP materials as required in AR 385-40.

6-9. Chemical warfare agents

a. Handling, use, and disposal of chemical warfare agents and ammunition-related materials will be per Army regulations and in

a manner that protects public health and the environment. Chemical warfare agents destined for disposal will be managed as hazardous waste under RCRA, if applicable. Army directives dealing with transportation and travel, explosives, safety, and disposal of supplies and equipment contain guidance on procedures. AR 185-61 prescribes the safety program for chemical agents and associated weapon systems. AR 50-6 contains the chemical surety program. Plans for the disposal of chemical warfare agents will require supporting environmental documents per NEPA of 1969, the Military Procurement Act of 1979, Public Law 99-145 (section 1412, Destruction of Existing Stockpile of Lethal Chemical Agents and Munitions, Nov 85), and AR 200-2.

b. ICs will report through command channels to HQDA (DALO-SMZ) WASH DC 20310-0540 on the handling, use, inventory, or disposal of chemical warfare agents. As required, these commands will report on chemical accidents and incidents as outlined in AR 50-6. Disposal guidance can be obtained from DA Pam 40-8 for nerve agents, and through command channels from the—

(1) Commander, USAEHA, ATTN: HSHB-ME, Aberdeen Proving Ground, MD 21010-5422.

(2) Commander, U.S. Army Chemical Research, Development, and Engineering Center (CRDEC), ATTN: SMCRR-CO, Aberdeen Proving Ground, MD 21010-5423.

(3) Program Manager for Chemical Demilitarization, Aberdeen Proving Ground, MD 21010-5401.

6-10. Pesticides

No pesticides, pesticide-related waste, pesticide containers, or residues from a pesticide container will be disposed of in a way that is inconsistent with the label or labelling instructions. Pesticide disposal guidance provided in AR 420-76 will be followed.

6-11. Medical, dental, and veterinary supplies and health care facility wastes

Disposal procedures in this regulation for these items apply both to existing and new Army and ARNG facilities.

a. No medical, dental, or veterinary supplies or their containers will be disposed of in any way inconsistent with—

(1) Instructions on the label.

(2) Suggested guidelines provided in Supply Bulletin (SB) 8-75 series.

(3) Disposal procedures prescribed by appropriate regulations.

b. Medical, dental, and veterinary supplies that are excess of medical facility requirements will be reported through medical supply channels per AR 40-61. Disposal instructions will be requested.

c. USAEHA has issued a method of destruction for medical, dental, and veterinary supplies that are not RCRA hazardous waste, but should be managed as RCRA hazardous waste. If the generator does not possess the technical capability or facilities to dispose of the items, the generator will contact the DRMO for disposal; however, the generator may be requested to provide one or more witnesses to the destruction.

d. Some medical, dental, and veterinary supplies are RCRA listed or characteristic wastes. These items must be managed and disposed of as a hazardous waste through the DRMO or a commercial contract with a permitted disposal firm.

e. DLA disposes of all items in Federal supply classes 6505, 6550, 6600, and 6800. This will include routine destruction/disposal of hazardous material and nonhazardous controlled material. DLA does not accept infectious or radioactive waste.

f. ICs disposing of medical, dental, and veterinary supplies by land burial will maintain records on—

(1) Quantities disposed.

(2) Disposal method used.

(3) Disposal site location.

g. Health care facility wastes will be handled, stored, treated, and disposed of per AR 40-5, AR 50-61, and other applicable regulations.

h. ICs and managers will comply with the MWTa and implementing regulations, where applicable.

6-12. Solid waste management procedures

a. General.

(1) All organizations generating, collecting, storing, treating, and disposing of solid waste must comply with EPA regulations or applicable State or local requirements (whichever are most stringent).

(2) Army solid waste programs at the installation level generally will be managed by that element already functionally responsible for refuse collection and disposal. Reusable or marketable materials may be referred to the servicing DRMO for ultimate disposition or may be managed by the IC as part of a resource recovery program.

(3) The IC, including OCONUS commanders, will ensure that the volume or quantity of solid wastes is minimized per State and Federal laws and regulations and Army policy, and will actively encourage the use of resource recovery, recycling and reuse, and emerging technologies such as composting, on a case-by-case basis.

b. *Storage of solid waste.* Storage of wastes will be accomplished in a clean and environmentally safe manner. Solid wastes (or materials separated for recycling) will be stored in such a manner that they—

(1) Are not a fire, health, or safety hazard.

(2) Do not provide food or harborage for disease vectors (flies, mosquitoes, and rodents).

(3) Are contained or bundled to prevent spills.

c. *Treatment/disposal of solid waste.* Treatment and disposal of solid wastes will comply with Federal, State, and Army requirements. Guidance on thermal processing and land disposal of solid wastes is described in AR 420-47. For OCONUS installations, treatment and disposal of solid wastes will comply with the requirements of international agreements of SOFAs, coordinated with the installation environmental office, and approved by the IC.

6-13. Site recording

Installations that operate or close solid waste and hazardous waste treatment, storage, or disposal units at any point in the installation's history will identify the location and dimensions of landfill cells or other hazardous waste units on the installation master plan and survey plat, and include a record of the quantity and type of wastes disposed of within each cell and unit. ICs, acting through their USACE district, will provide this information to update real estate records prior to any decision on real estate transactions and to ensure compliance with the regulatory requirements of RCRA and CERCLA/SARA. ICs will follow the procedures of AR 405-90 in connection with the sale, transfer, or disposal of excess contaminated real property. The IC will provide written notice to the local land use or zoning authority and other State officials or the EPA regional administrator of his or her intent to close a hazardous waste treatment, storage or disposal facility (40 CFR section 264.116).

6-14. Recycling

The policies and instructions herein apply to all Army installations, including those that operate under the industrial fund.

a. General.

(1) Installations will establish or expand recycling programs consistent with the requirements of this regulation.

(2) Recycling efforts will emphasize waste stream reduction and closed-loop recycling approaches (installation or intra- or interservice reuse) prior to offering materials for sale. Closed loop recycling will frequently offer the greatest economic and environmental benefits.

(3) Solid waste will be recovered and recycled to the greatest extent practicable.

(4) Sound economic analyses will be conducted per AR 11-28 for each project. Analysis will be performed to show the benefits and costs of resource recovery as compared to traditional methods of solid and hazardous waste management.

(5) Recycling programs managed and operated by the managing activity prior to approval by the environmental office may either complement an installation-operated program, or be the sole recycling activity, if—

(a) The end result furthers resource recovery by recycling waste.

(b) The annual cost to the Army is no greater than that of the routine waste disposal system.

(6) Army installations and activities that do not have their own established recycling program will cooperate to the extent practicable in recycling programs conducted by the civilian community.

b. *Proceeds from recycling.* DLA and DCSLOG remain responsible for market research and sales. DLA and DCSLOG will return 100 percent of the proceeds from sales of recyclable materials to the IC with qualifying recycling programs (para 6-14c). Procedures governing sales of recyclable materials must be consistent with the procedures in section 203 of the Federal Property and Administrative Services Act of 1949 (40 USC 484) for the sale of surplus property. Although the screening for utilization, transfer, and donation as described in DOD 4160.21-M is not required prior to offering recyclable materials for sale, such screening may occur at the discretion of the Commanding General, DLA. Proceeds from the sale of recyclable materials at an installation will be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover the costs of operations, maintenance, and overhead for processing recyclable materials at the installation (including the cost of any new or replacement equipment purchased for recycling purposes). The IC will determine the disposition of the proceeds from the recycling program. Proceeds from the sale of recyclable materials will first be applied to the costs of operating, maintaining (including overhead costs), and improving environmental programs.

(1) Accumulation of proceeds from sales of recyclable materials is authorized only for installations with qualifying recycling programs. Funds collected from sales of recyclable materials will be deposited to **F3875 *budget clearing account (suspense)*. These funds must be segregated within that account to ensure proper accounting as to the amounts collected and their disposition. The accumulation of funds in **F3875 is not affected by FY end, so proceeds acquired during one FY may be carried forward and merged with proceeds of subsequent FYs.

(2) The installation finance and accounting office receiving the sales proceeds will mail a copy of the cash collection voucher to the fiscal station shown on the collection voucher. This advance copy will be used by the fiscal station to record the collection of proceeds to its account and will be used for followup purposes as necessary. The copy received through the financial network will be used to clear the undistributed collection. These vouchers will be mailed in the weekly transaction for others (TFO) cycle.

(3) The installation finance and accounting office will also—

(a) Report weekly transactions to the responsible fiscal station cited on the collection voucher, and

(b) Report the collections within the same month in the statement of transactions to the treasury.

(4) Reimbursements to operation and maintenance accounts to cover the expenses of recycling programs will be made from **F3875 as needed within a FY.

(5) Remaining proceeds.

(a) If funds remain in **F3875 after reimbursing the costs of operation, maintenance, and overhead, not more than 50 percent of the balance may be used to finance projects for pollution abatement, energy conservation, and occupational safety and health (OSH) activities. A project may not be carried out under the preceding sentence for an amount greater than 50 percent of the amount established by law as the maximum amount for an M&O account minor construction project. The IC will determine the disposition of the proceeds by giving priority to improving environmental programs and the purchase of equipment, or to modifying equipment to achieve, maintain, and monitor compliance with Federal, State, and Army environmental requirements and health service programs.

(b) The remaining balance in **F3845 after financing projects for pollution abatement, energy conservation, and OSH activities may be transferred to the nonappropriated morale and welfare account to support any morale or welfare activity, determined by the IC.

(6) If the balance of an installation's proceeds at the end of any FY in **F3875 exceeds \$2,000,000, the amount in excess of \$2,000,000 must be deposited into the U.S. Treasury as miscellaneous receipts.

c. *Procedures to designate a qualifying recycling program.*

(1) A qualifying recycling program is established when a managing activity, designated by the IC, initiates procedures for the segregation and collection of specifically named recyclable materials from the waste stream. The managing activity will maintain records of the quantity and type of materials sold.

(2) A qualifying program must—

(a) Have a method for maintaining fiscal accountability for all funds received and disbursed.

(b) Have implemented the procedures outlined in this regulation.

(c) Provide a review process for all projects funded with the proceeds of sales. This review process will consider all projects as if funded from normal appropriations.

d. *Recovery and recycling of used oil.* Recovery and recycling of used petroleum products will be maximized to protect the environment and conserve energy and materials. While a closed-loop arrangement (whereby the used oil is re-refined by a contractor and returned to the generator) is the preferred method of recycling, used oil may be sold through a qualifying recycling program and the proceeds returned to the installation. The economic success of recycling oil depends on the quality of the liquid. Care should be taken to segregate oils and other fluids of different sources to ensure homogeneous batches for turn-in. Handling, storage, and disposal practices must be environmentally safe and acceptable. Accidental spills and discharges will be handled per procedures in chapter 8.

6-15. Funding solid waste and hazardous waste disposal

a. Compliance with mandated environmental standards is cost of doing business, including the cost of solid and hazardous waste disposal. Wastes generated by installations involved in daily routine recurring operations and activities and, as a consequence, of processes, procedures, and type of materials and supplies used, will bear the cost of disposal using operation and maintenance, Army (OMA); funds. Those operating depots/plants funded with AIF that generate wastes by performing specific operation will bear the cost of disposal using the AIF. Each MACOM and installation/unit commander is responsible for achieving and maintaining compliance with the environmental standards by ensuring that funding requirements for solid and hazardous waste disposal are identified and justified in the command/installation/unit operating budget.

b. Funding for solid and hazardous waste disposal services provided by DRMS must be programmed and budgeted by each installation/unit. Each installation/unit engaging the services of DRMS for waste disposal will provide reimbursement by military interdepartmental purchase request (MIPR). Each DODAAC authorized to receive disposal service will be identified by the installation.

c. Installations having tenant activities will implement funding charge-back procedures beginning FY92 for reimbursement for the cost of waste disposal.

6-16. Technical assistance

a. Technical assistance relating to considerations of public health, public welfare, and the environment in dealing with solid and hazardous waste can be obtained from Commander, USAEHA, ATTN: HSHB-ME-SH, Aberdeen Proving Ground MD 21010-5422. USAEHA also provides technical assistance relating to waste minimization audits and methods.

b. Technical assistance on the disposal of batteries can be obtained from the Commander, U.S. Army Communications and

Electronics Command and Fort Monmouth, Fort Monmouth, NJ 07703-5000.

c. Technical assistance on designing solid and hazardous waste facilities can be obtained from Director, USAEHSC. Kingman Building, Ft. Belvoir, VA 22060-5580.

d. Sources of information on technology and regulations concerning HAZMIN can be obtained from—

(1) Administrator, EPA, Office of Research and Development, 6 West St. Clair, Cincinnati, Ohio 45268. Phone: 513-684-7528.

(2) Commander, USAEHA, ATTN: Waste Disposal Engineering Division, Aberdeen Proving Ground, MD 21010-5422. Phone: AUTOVON, 584-3651/2024. USAEHA is available to provide technical assistance to installations in developing HAZMIN programs. Upon request, USAEHA will visit an installation and review its operations. The agency will then provide recommendations aimed at improving the installation's HAZMIN program. Request for USAEHA assistance should be submitted through the MACOM as prescribed in AR 40-5.

(3) Commander, USATHAMA, ATTN: Technical Support Division, Aberdeen Proving Ground, MD 21010-5401. Phone: AUTOVON, 584-2466/2054.

(4) Commander, USACERL, ATTN: CECER-EN, P.O. Box 4005, Champaign, IL 61824-4005. Phone: Commercial, 1-800-USA-CERL.

(5) Director, The Hazardous Material Technical Center, P.O. Box 8168, Rockville, MD 20856-8168. Phone: Commercial, 1-301-468-8858; toll free, 1-800-638-8958.

(6) HQDA (ENVR-EH), WASH DC 20310-2600. Phone: Commercial, 1-202-693-4635/5032; AUTOVON, 223-4635/5032.

004170


 United States Environmental Protection Agency
 Washington, DC 20460

Federal Agency Environmental Plan - Project Report

I. Facility Information											
1. State Alpha P A	2. Agency/Bureau 011011	3. GSA Installation 680214	4. EPA Region 03	5. Country USA	6. New Installation ☐ Yes ☒ No						
7. Name of the Installation N A V A L A I R S T A T I O N											
8. Street Address 18 F I G H T E R D R I V E											
9. City Name G A I N E S				10. ZIP Code, if known 0102161-1101010		11. Ownership Type F I F					
II. Basic Project Information											
1. Agency Project Number N A S G 9 0 P 0 0 3		2. Multiple Installations ☐ Yes ☒ No		3. Statutory Authority R C R A		4. Pollutant Category H A Z A R D		5. Funding Account 10		6. Year Funding Required 90	
7. Project Name (Brief Description) V I E W I N G S I N I L I B R A R Y											
8. Project Contact Name J I J A M E S				9. Contact Telephone 6111-17671-101010		10. Total Cost Estimate (in \$1,000's) 1371.0					
11. Environmental Project Assessment ☒ High (H) - (Critical) ☐ Med (M) - (Important) ☐ Low (L) - (Desirable)											
12. Compliance Status											
Class I ☐ CMPA Conditions of a signed Federal Facility Compliance Agreement, Consent Order, or equivalent State enforcement action ☐ INOV Deficiencies found on inspections by regulatory authority or cited in a Notice of Violation or equivalent ☒ ESDP Does not meet established standard and compliance deadline has passed			Class II ☐ ESDF Does not meet established standard and compliance is in the future ☐ PSDF Does not meet pending standard and compliance deadline is in the future			Class III ☐ ESRO Meets established standard but needs replacement due to obsolescence ☐ ESRE Meets established standard but needs replacement due to need for expansion ☐ ESDL Meets established standards but needs to demonstrate leadership ☐ OTHER Other					
13. Estimated Requirements Cost						14. Project Milestones/Progress (Month/Year)		Progress Codes:			
Fiscal Year	Budgeted (\$1,000)		Funded (\$1,000)		Design/Plan Completion	Final Compliance Required	1. Preliminary Planning				
90	1371.0		1371.0		0790	0988	2. Design				
					Construction/Work		3. Construction				
					Start	Completion	4. Work On-going (non-construction)				
					011910	06911	5. Completed				
					Progress Code	Fiscal Year Completed	6. Discontinued				
					2	017912	7. Deferred				
							8. Other - identify in project narrative				
							9. Continuous				
III. Project Narrative											
Description (including legal requirements and pollutants to be controlled)											
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EPA Form 3500-7 (REV. 9-89) Previous edition is obsolete.

Figure 6-1. Sample project report.

Chapter 7 Environmental Noise Abatement Program

7-1. Scope

a. The Army's environmental noise abatement program goal is to achieve compliance with applicable noise regulations in a manner consistent with mission accomplishment. To achieve this goal, the Army will—

(1) Control environmental noise to protect the health and welfare of military personnel and their dependents, Army civilian employees, and the public adjacent to Army installations.

(2) Reduce community annoyance from environmental noise to the extent feasible, consistent with Army training and materiel testing activities.

b. This chapter implements—

(1) The Quiet Communities Act of 1978 (PL 95-609).

(2) The Noise Control Act of 1972 (PL 92-574), as amended.

(3) Federal regulations issued per above acts.

(4) DOD Air Installation Compatible Use Zone (AICUZ) Instruction 4165.57.

(5) DOD Instruction 5100.5.

(6) AR 95-1.

(7) DA memorandum from Director of the Army Staff, 20 January 1983, subject: Installation Compatible Use Noise Zone (ICUZ) Program Implementation.

(8) DA memorandum from Director of the Army Staff, 14 July 1987, subject: Installation Compatible Use Zone (ICUZ) Program Implementation.

c. The policies and guidance provided in this chapter pertain only to the control of environmental noise within the United States.

d. OCONUS MACOMs will develop environmental noise abatement programs per the provisions of SOFAs and other international agreements. The programs will incorporate the philosophy and spirit of the guidance in this chapter.

e. Policy and guidance related to the control of noises hazardous to hearing are in TB MED 501.

7-2. Environmental noise abatement program requirements

Under the environmental noise abatement program, DA will—

a. Assess the impact of noise that may be produced by proposed Army actions/activities, and will lessen harmful or objectionable impacts to the greatest extent practicable.

b. Comply with applicable Federal laws and regulations respecting the control and abatement of environmental noise. Questions regarding the applicability of State and local laws and regulations should be referred to the command legal officer and through channels HQDA (DAJA-EL) WASH DC 20310-2210 if necessary for ultimate resolution.

c. Maintain an active ICUZ program to protect the present and future operational capabilities of the installation or facility. Encroachment problems may be caused by land uses that are not compatible with the existing and future noise environments, or noise environments that are not compatible with existing and future on-post land uses. Predictions for long-range planning purposes can be made for several decades into the future. ARNG and other part-time operations will base their future predictions on a reasonable level of operations, but as if they operated year round.

d. Coincident with ICUZ reviews, assess the effect of noise from those on-post noise sources studied as a part of the ICUZ review and of off-post noise sources, such as commercial airports and highways and on-post noise-sensitive land uses. This assessment will use the ICUZ zones and measures delineated in paragraph 7-5, and mitigation measures for incompatible on-post land uses will be identified.

e. Minimize environmental noise impacts by—

(1) Noise reduction engineering.

(2) Administrative and operational controls.

(3) Appropriate siting and design of facilities and ranges.

(4) Development and procurement of weapons systems and other military combat equipment that produce less noise, when consistent with operational requirements.

(5) Procurement of commercially manufactured products, or those adapted for general military use that produce less noise and that comply with regulatory noise emissions standards.

(6) Appropriate land use controls, which include—

(a) Assisting in the development of protective off-post land use planning.

(b) Assisting in the development of protective off-post structural requirements to mitigate noise impacts.

(c) Controlling land uses through easement or fee purchase. Acquisition of property rights solely on the basis of unacceptable noise levels will be considered only after all possibilities of achieving acceptable levels have been exhausted and the operational integrity of the mission is threatened. If programming actions become necessary, the provisions of DOD Instruction 4165.57, paras D2b(2) and (3) will be followed.

(d) Developing protective on-post land use planning.

(e) Developing protective on-post structural requirements to mitigate noise impacts.

f. Forward ICUZ studies to HQDA (ENVR-E) WASH DC 20310-2600, for final review and approval when zone III goes off the installation or when the ICUZ situation is controversial. All other ICUZ studies will be approved at the MACOM level.

g. Reduce building interior noise levels through architectural and engineering controls when noise-sensitive activities such as medical treatment, education, and general living are located in noise impacted areas.

h. Assess noise using the measures, criteria, and procedures of paragraph 7-5.

(1) To conform to this regulation and to other DOD regulations, sites located in zone I (as described in para 7-5d below) are acceptable for residences and other noise-sensitive land uses.

(2) DA noise assessment policy is based on adverse impacts as indicated by objective noise levels. Complaints may be an indicator of situations where adverse impact exists, but the correlation between the two is poor at best. The occurrence of complaints from areas in zone I does not constitute an adverse impact. Conversely, the absence of complaints from zones II or III does not mean that a noise problem does not exist.

7-3. Noise complaints

A noise complaint procedure will, as a minimum, ensure that—

a. A log is maintained of all noise complaints.

b. Complaints are investigated without delay.

c. The complainant is aware of the installation's mission and that every effort will be made to correct the problem, mission permitting.

d. Complaints are routed to the office responsible for the type of activity that resulted in the noise complaint. The PAO will require a response for the purpose of providing information to the complainant.

e. A copy of the complaint and response is provided to the ICUZ committee. The ICUZ committee will provide technical assistance to the PAO and the activity generating the noise (para 7-5b).

f. The noise-generating activity will complete a follow-up by identifying the cause of the noise and any action taken to correct the deficiency. A copy of the follow-up documentation will be provided to the ICUZ committee.

7-4. Standards

a. General. Any military equipment or weapons designed for combat use are excluded from the requirements of section 6 of the Noise Control Act of 1972, "Noise Emission Standards for Products Distributed in Commerce." The following environmental noise standards apply to the subject matter of this regulation—

(1) The Noise Control Act of 1972, which requires compliance with State and local noise laws and ordinances.

(2) For commercial equipment: EPA noise emission standards listed in appendix A and future standards as published in the CFRs.

(3) American National Standard Specification for Sound Level Meters, American National Standards Institute (ANSI) S1.4A-1985.

(4) American National Standard Methods for the Measurement of Sound Pressure Levels, ANSI S1.13-1971(R1976).

(5) American National Standard Specification for Acoustical Calibrators, ANSI S1.40-1984.

(6) American National Standard Sound Level Descriptors for Determination of Compatible Land Use, ANSI S3.23-1980.

(7) American National Standard Method for the Assessment of High-Energy Impulsive Sound With Respect to Residential Communities, ANSI S12.4-1986.

(8) American National Standard Methods for the Measurement of Impulse Noise, ANSI S12.7-1986.

(9) American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound, ANSI S12.9-1988.

(10) International Electrotechnical Commission (IEC) Publication 804 (1985), Integrating-Averaging Sound Level Meters.

b. Applicable guidance.

(1) DOD Construction Criteria Manual 4270.1M.

(2) DOD AICUZ Instruction 4165.57.

(3) Committee on Hearing, Bioacoustics and Biomechanics, WG84, "Assessment of Community Response to High-Energy Impulsive Sounds," National Research Council (1981).

(4) "Guidelines for Considering Noise in Land Use Planning and Control," Federal Interagency Committee on Urban Noise (1980).

(5) "Rotary-Wing Aircraft Noise Measurements: Analysis of Variations and Proposed Measurement Standard," USACERL, Technical Report N-184 (1984).

(6) "Acoustic Directivity Patterns for Army Weapons: Supplement 2," USACERL, Technical Report N-60 (1984).

(7) TM 5-803-2 (Planning in the Noise Environment).

7-5. Installation compatible use zone program

a. General.

(1) The primary strategy for protecting an installation's mission from the problems of noise incompatibility is long range land use planning. The mechanism for this planning is the ICUZ program, which requires each DA IC to complete an initial ICUZ study to identify and control noise impacts. The installation will prepare an ICUZ study with the following minimum components (detailed guidance will be provided by MACOM commanders (for ARNG, by Chief, NGB))—

(a) Noise zone maps of the installation's existing and future noise environment.

(b) Analysis of land use compatibility problems and solutions, to include—

1. Identification of existing incompatible land uses within zones II and III.

2. Identification of possible incompatible land uses within zones II and III.

3. Identification of desirable land uses within zones II and III.

(c) ICUZ public involvement plan.

(d) Review of installation master plans to ensure that existing and future facility siting is consistent with the noise environment.

(e) Identify noise sources that create impact; investigate possible mitigations; program resources for reduction of noise impacts.

(2) Updates will be prepared when significant changes occur in noise sources or contours, or in intervals of no more than 5 years. This update will be dependent on the level of installation activity and changes to that activity.

b. ICUZ committee.

(1) An ICUZ committee will be established with a minimum membership of representatives from—

(a) IC.

(b) Environmental management.

(c) Master planning.

(d) PAO.

(e) SJA.

(f) Plans, operations, and training (range control and airfield operations).

(2) The ICUZ committee will meet on a regular basis, as required, but at least semiannually.

(3) The ICUZ committee will (at a minimum)—

(a) Review complaints.

(b) Investigate and recommend mitigative actions.

(c) Coordinate with the public, as appropriate.

(d) Assess installation activities for possible noise impacts.

(e) Monitor land development plans, programs, and projects in the area adjacent to the installation.

(f) Review development of on-post facilities.

(4) The functions of the ICUZ committee may be incorporated into those of the EQCC (described in para 12-13). If this is done, a separate ICUZ committee is not necessary.

c. Noise descriptors.

(1) DA will assess and describe Army environmental noise in terms of the standards and guidance given in paragraph 7-4. Specifically, large weapon fire (for example, artillery, armor, demolition) will be assessed using the C-frequency weighting. All other noise not meeting the criteria for high-energy impulsive sounds will be assessed using the A-frequency weighting. Assessment of helicopter noise will include a distance factor and another helicopter-specific factor to account for the special character of the sound, as required by the DOD AICUZ instruction. The DOD AICUZ Instruction 4165.77 requires the addition of seven dB to measured helicopter levels under certain conditions. Projects involving highway noise may use the noise analysis procedures of the Federal Highway Administration.

(2) Current scientific evidence shows that helicopters are but one example of a wider class of noise sources which can be described either as impulsive or as having high-level, low-frequency energy strong enough to rattle windows or other building elements, or both. Evidence shows that the increased annoyance generated by this class of noise is quite variable. Rattles and non-auditory effects can be induced by some helicopters when the helicopter is loud enough and near enough. The penalty factors in table 7-1 will be added to the measured or predicted helicopter sound exposure levels for helicopters. However, if operations at an airfield involve primarily AH-64, OH-58, and UH-60 aircraft, these factors can be ignored. In situations where the penalty factor is relevant, at least two sets of noise zone maps should be produced: one with, and one without, the penalty factor. This will illustrate areas where rattle-proofing techniques can be employed to mitigate rattles both in existing structures and new construction.

Table 7-1

Calculation of dB factor to be added to helicopter sound exposure levels

Slant distance (m)	Factor (dB)
0-200	7
200-300	5
300-400	3
400-500	1
500 and longer	0

(3) The primary means of noise assessment will be by mathematical modeling and computer simulation. Simulations will normally be summarized using the annual average day-night sound level (DNL). Separate overall A-weighted noise zone maps expressed in A-weighted DNL (ADNL) and C-weighted maps expressed in CDNL should normally be prepared for each major noise source. All maps will be labelled using the zone I, II, and III. The results normally presented to the public should be a composite which portrays, on one map, the noise impact resulting from all sources in terms of zones I, II, and III. In local areas where the DNL is determined by a few infrequent, very high-level noise sources (for example, blasts with C-weighted sound exposure

levels in excess of 110 to 115 dB), the contour map may be supplemented by descriptions of these single events and potential community reaction.

d. **Noise monitoring.** Normally, on-site monitoring of the noise environment should not be considered because of the large resource commitments in time, manpower, and equipment required. When a zone III extends off the installation, or there is significant controversy, on-site monitoring will be performed. Permanent, unmanned monitoring equipment provides statistically better data and is far less labor intensive.

e. **Noise zone maps.**

(1) ICUZ noise zone maps will be prepared showing noise zones I, II, and III as shown in table 7-2.

(2) Housing, schools, medical facilities, and other noise-sensitive land uses will be sited according to the following—

- (a) ICUZ zone I, acceptable.
- (b) ICUZ zone II, normally unacceptable.
- (c) ICUZ zone III, unacceptable.

Table 7-2
Description of noise zones

ICUZ zone	Percentage population highly annoyed	A-weighted day-night sound level ADNL(dB)	C-weighted day-night sound level CDNL (dB)
I	< 15	< 65	< 62
II	15-39	65-75	62-70
III	> 39	> 75	> 70

f. **Noise zone map development.** The generation of noise contour maps requires accurate operational data such as numbers, locations, types, and times of noise-producing events. Contours should be produced for the present noise situation and for reasonable, long range peacetime mission scenarios. For planning purposes, several future scenarios can be produced. The computer generation of noise contour maps for existing and future installation operations requires the following data—

- (1) For impulsive noise (25mm or greater)—
 - (a) Location of firing points.
 - (b) Location of target areas.
 - (c) Location of demolition areas.
 - (d) Number of rounds fired at each firing point by type and time of day (daytime 0700-2200, nighttime 2200-0700).
 - (e) Propellant charge to reach target.
- (2) For aircraft noise—
 - (a) Flight track location.
 - (b) Altitude of aircraft along flight track.
 - (c) Number of operations along each flight track by type of aircraft and time of day.
- (3) For small arms noise (less than 25mm)—
 - (a) Location of range.
 - (b) Location firing points.
 - (c) Direction of firing.
 - (d) Type of small arms weapon fired.
- (4) For other sources of noise, follow the guidelines below—
 - (a) Contact Commander, USAEHA, Aberdeen Proving Ground, MD 21010-5422, for guidance.
 - (b) To ensure accurate computer simulations of noise from existing and future operations, operational data should be obtained from informed experts such as airfield operations or range control personnel.
 - (c) Operational data for computer simulations should cover 1 year.

g. **Exceptions.** Installations without significant noise sources (ranges, airfields, or industrial operations) will prepare a single-page ICUZ statement of negligible impact.

h. **Assistance in development and analysis of mitigative measures.** If the assistance requires RDTE, USAEHA will ask for assistance from USACERL after consulting with the MACOM or CNGB environmental office.

i. **Review and coordination.**

(1) The ICUZ study will be reviewed within the Army per para 7-2h and MACOM commander or Chief, NGB guidance.

(2) In developing an ICUZ study, follow the public review and comment procedures established under AR 210-70. Ensure that Federal, State, and local agencies engaged in land use planning or land regulation for areas adjacent to the installation have an opportunity to review and comment on the ICUZ study.

(3) Per a, above, the ICUZ study will be updated at least every 5 years. The ICUZ committee should review the ICUZ study annually for possible changes required by on- and/or off-post development and by installation mission. Only significant changes to the ICUZ study will be coordinated with the MACOM or CNGB. Minor changes will be shown by annotations to the ICUZ study.

7-6. Noise assessment

The environmental impact of noise produced by Army activities will be described in the appropriate documentation for a proposed Army action, per AR 200-2.

a. The primary method for assessing Army environmental noise is to simulate the noise environment through mathematical models or computer simulations. Simulation procedures are available for all major Army noise sources. Using these procedures is the most economical way to assess noise. Because the accuracy of simulations depends on the accuracy of the operational data, real operational data should be used when available. When simulating the noise of proposed or future operations, operational data should be obtained from informed experts such as airfield operations and tower, or range control personnel.

b. An assessment using simulation procedures may cover only a few noise sources or receivers. If so, installation personnel are encouraged to conduct their own assessment. They will use the procedures in TM 5-803-2 and the standards and guidance in paragraph 7-3. Assessment of single sources can often be accomplished by contacting Commander, USAEHA, ATTN: HSHB-MO-B, Aberdeen Proving Ground, MD 21010-5422.

c. An assessment may include a large number of noise sources. If so—

(1) The installation should normally obtain general assistance, noise monitoring, and noise zone maps from USAEHA.

(2) Specific answers to questions dealing with prediction and data collection tools and systems, assistance with problems of a research nature, and permanent noise monitoring and warning systems should be obtained from Commander, USACERL, Champaign, IL 61824-4005.

Chapter 8

Oil and Hazardous Substances Spill Contingency Planning, Control, and Emergency Response

8-1. Scope

a. This chapter prescribes policy and procedures for the prevention and control of spills of oil and hazardous substances. For the purpose of this chapter, a spill is also defined to include the release of a reportable quantity of hazardous substance. Information about spill emergencies is shown in table 8-1 and figure 8-1.

Note: The telephone numbers for the next higher headquarters and for the LEPC should be filled into table 8-1 now, before an emergency occurs.

1. Name, location, and type or function of installation.
2. Commander of installation and phone number.
3. Name and phone number of person making report.
4. Type and estimated amount of material.
5. Location of spill.
6. Local discovery time and date of incident.
7. Receiving stream or waters.
8. Cause of incident and equipment/facility involved.
9. Injuries and/or property damage.
10. Duration of discharge.

11. Remedial actions taken.

12. Agencies notified.

Figure 8-1. Sample of contents of telephone report on spill emergency (to next higher HQ, AOC, USATHAMA, LEPC, NRC)

b. It is Army policy to prevent spills of oil and hazardous substances due to Army activities, and to provide for prompt, coordinated response to contain and clean up spills that might occur.

c. The Army's objectives for carrying out this policy are to—

(1) Use, generate, transport, store, handle, and dispose of oil and hazardous substances in a way that protects the environment.

(2) Institute a responsive notification and reporting procedure to be used when a spill occurs, and maintain readiness to respond rapidly to contain and clean up a spill.

(3) Cooperate with other Federal, State, regional, interstate, and local government agencies to ensure that public health and welfare are adequately protected from spills of oil and hazardous substances.

(4) Conform to applicable substantive requirements of the Emergency Planning and Community Right-To-Know Act of 1986, sections 301(c), 303(d)(1), and 304, to the maximum extent consistent with security-related limitations on public disclosure.

(5) Comply with other applicable Federal, State, regional, and local regulations, SOFAs, and international agreements.

d. Prevention, control, and reporting of spills are subject to the provisions of—

(1) 40 CFR 110, 112, 116, 117, 122, 129, 262, 264, 265, 300, 302, and 355.

(2) 40 CFR 761.120.

(3) AR 420-47, Solid and Hazardous Waste Management.

(4) CERCLA of 1980, as amended by SARA of 1986.

(5) The Emergency Planning and Community Right-To-Know Act of 1986 (also known as Title III of SARA), sections 301(c), 303(d)(1), and 304.

(6) FWPCA, as amended.

(7) The National Oil and Hazardous Substances Pollution Contingency Plan (also known as the National Contingency Plan or NCP) under CERCLA.

(8) OSHA of 1970.

(9) RCRA.

(10) TSCA of 1976.

(11) Any State and local regulations that supersede the aforementioned Federal regulations.

(12) SOFAs or international agreements, particularly those applicable to OCONUS MACOMs.

e. For further information on emergency response, see the following references—

(1) Air pollutants, hazardous, in 40 CFR 61 and paragraph 4-2b(3) of this regulation.

(2) Chemical surety material, in the following—

(a) AR 50-6. Chapter 5 of this regulation is on chemical accident/incident response and assistance (CAIRA).

(b) The CAIRA plan at the installation, for specific guidance.

(3) Dumping of oil or hazardous substances by a non-Army party onto Army property, in paragraphs 9-4c(13), and 9-7 of this regulation.

(4) PCBs, in paragraph 5-6 of this regulation.

8-2. Implementing guidelines

a. The discharge of oil or hazardous substances from installations, vehicles, aircraft, and watercraft into the environment without a discharge permit is prohibited. Exceptions will be made in cases of extreme emergency when the discharge is—

(1) considered essential to protect human life, or

(2) Authorized by a discharge permit or an IOSC during a spill incident response.

b. Every reasonable precaution should be taken to prevent spills of oil and hazardous substances.

c. Facilities will be provided to store, handle, or use oils and hazardous substances, and proper safety and security measures will be implemented. These facilities will be designed to prevent or

minimize spills of such substances to the environment and will be periodically tested and inspected.

d. The discharge of ballast water from watercraft will be strictly controlled; either ship-board or shore-side oil and water separation must be performed first. Treatment of waste oil will comply with all applicable Federal, State, regional, and local requirements (para 3-5). Wastes produced during the cleaning of fuel storage tanks and combustion engine components will also be collected and treated to required levels before discharge. (For USTs, para 5-7).

e. Wastewater discharges containing oil or hazardous substances will be monitored according to permits issued under the NPDES, as described in 40 CFR 122 (para 3-3a).

f. Assistance provided for spills not due to Army activities and not covered by EPA, USCG, or NCP will be conducted per AR 55-355, AR 75-15, and AR 500-60.

8-3. Reporting a spill of oil or hazardous substance

a. Any spill of oil or hazardous substance will be reported to the IOSC immediately, and will concurrently be addressed by interim actions to eliminate the source, and contain the spill.

b. If a reportable quantity has been spilled, the IOSC will immediately notify appropriate agencies and commands by telephone. (See table 8-1 for telephone numbers and references for reportable quantities, and Figure 8-1 for the information to include in a report by telephone.)

(1) Reportable quantities for the following substances may be found as cited below:

(a) Oil, in 40 CFR 110.

(b) Hazardous substances, in 40 CFR 302.

(c) Extremely hazardous substances, in 40 CFR 355.

(d) Toxic gases, in 40 CFR 355 (also see CAA, 40 CFR 61, and NCP, 40 CFR 300.6). Releases of toxic air pollution are also covered in paragraph 4-2b(3) of this regulation and in AR 50-6.

(2) The IOSC will report without delay by telephone concurrently to higher headquarters, the USATHAMA, and the AOC (24-hour operation).

(a) For a spill of a reportable quantity of oil or hazardous substance, the NRC and State and local authorities must be notified. If immediate notification of the NRC is not practical, the EPA regional office or the USCG may be notified instead, provided the NRC is notified as soon as possible.

(b) For a spill in a coastal area or in U.S. navigable waters, the proper USCG district office must be notified.

(c) For a spill of a reportable quantity of an extremely hazardous substance, the LEPC must be notified, per section 304 of the Emergency Planning and Community Right-To-Know Act of 1986.

(3) For hazardous substances dumped by a non-Army party onto Army-controlled property, see paragraph 9-4c(13).

c. The IOSC will submit the following written reports—

(1) To USATHAMA and higher HQ concurrently, within 5 working days after telephone notification; location and topographic maps and flow diagrams should be included; address: USATHAMA, ATTN: CETHA-EC-S, Aberdeen Proving Ground, MD 21010-5401.

(2) To the EPA regional administrator (see 40 CFR 112.4) within 60 days after a single spill of 1,000 gallons or more of oil, or after two oil spills into navigable waters or into or beyond the adjoining shorelines within any 12-month period. EPA will determine on an individual basis the need for a written incident report for a hazardous substance spill. If EPA requires a report, a concurrent copy will be provided to higher headquarters and to the LEPC.

d. Although prompt action is essential in coping with any accident or incident, the potential impact on public health and the public's perceptions of spills of hazardous substances magnify this importance. Regarding release of information concerning the surety material and accidents resulting in casualty, specific guidance is in AR 360-5. Release of information regarding spills of hazardous substances will be conducted per the following guidelines—

(1) The public is entitled to all unclassified information concerning a spill of a hazardous substance. Furnishing such information in a timely, positive manner that assures accuracy and reflects consideration of the public welfare is in the national interest and is a function of command.

(2) In the event that a spill of a hazardous substance poses an imminent threat to the public health or welfare, or to the environment, the IC has the authority to approve the release of information.

(3) Information proposed for release will be coordinated with the installation's higher headquarters before release.

(4) For spills that are contained within the installation boundaries and pose no threat to the public health and welfare, or the environment in the surrounding community, release of information will be made at the discretion of the IC. However, prompt release of factual information is encouraged. Even if no information is formally disseminated to the public, any unclassified information that may be obtained under the Freedom of Information Act should be made readily available to any person who requests it.

(5) The responsible official who releases information about the spill should follow the procedures and methods described in the public affairs appendix of the ISCP (para 8-5b(15)). Such releases of information will be prepared to—

- (a) Ensure public safety.
- (b) Prevent or reduce widespread public alarm.
- (c) Ensure public understanding of the extent and nature of the public hazard resulting from the spill.

8-4. Spill prevention, control, and countermeasures plan

a. All installations and activities with onshore and/or offshore facilities that are stationary and not regulated by DOT will prepare, maintain, and implement an SPCCP if both qualifications (1) and (2) below are applicable—

(1) Because of its location, the installation or activity has the potential to spill oil or a hazardous substance in such quantity that it would be harmful to human health or welfare, or to the environment.

(2) The installation or activity meets at least one of the following criteria—

- (a) Aggregate above-ground oil storage on the installation is greater than 1,320 gallons.
- (b) Any single above-ground oil storage tank on the installation is greater than 660 gallons.
- (c) Total underground oil storage on the installation is greater than 42,000 gallons.
- (d) One or more hazardous substance is stored in quantities that would be harmful to human health or welfare, or to the environment if a spill were to occur.

b. As a minimum, the SPCCP will contain—

(1) General information on the installation, including: name of the installation, type or function of the installation, its location and address, charts of the installation's drainage patterns, and location maps.

(2) Name and title of the designated person responsible for coordinating responses to oil and hazardous substance spills.

(3) An inventory list of storage, handling, and transfer facilities that could possibly produce a significant spill of oil or hazardous substances (for example, due to equipment failure). For each listing, include a prediction of the direction and rate of flow, and total quantity of oil or hazardous substance that might be spilled as a result of a major failure.

(4) An inventory of all oil and hazardous substances at storage, handling, and transfer facilities.

(5) A detailed description of equipment and countermeasures, including structures and equipment for diversion and containment of spills for each listed site. Measures adopted should permit, as far as practical, reclamation of spilled substances. Many prevention and control requirements are similar to safety requirements for the design and operation of storage tanks, pipelines, and pumping facilities. For hazardous waste storage facilities, more stringent RCRA regulations apply (see 40 CFR 264 and 265, and para 6-4 of this regulation).

(6) A description of deficiencies at each listed site. Include a detailed description of corrective measures required and procedures to be followed to correct listed deficiencies. If it is determined that using preventive structures or equipment such as those noted in (5) above would not be practical, the IC will—

(a) Demonstrate fully that the installation of preventive measures would be impractical.

(b) Include the written provisions of the ISCP in this section of the SPCCP.

(7) Written procedures for—

- (a) Operations to preclude spills of oil or hazardous substances.
- (b) Inspections.
- (c) Recordkeeping requirements.

(8) A discussion of conformance with applicable guidelines, as described in 40 CFR 112.7.

(9) A discussion of conformance with applicable guidelines, as promulgated by applicable State and Federal regulations.

c. Regarding the implementation and review of SPCCPs—

(1) Each SPCCP and any subsequent amendments will be dated and become effective on the date on which a registered professional engineer (PE) certifies that the document has been prepared according to sound engineering practices. Before making this certification, the PE will—

(a) Perform an onsite examination of the facilities.

(b) Be familiar with 40 CFR 110, 112, 116, 117, 302, and related regulations.

(2) An original SPCCP with appendixes, including changes, will be maintained current, reviewed by a registered PE, and made available for onsite review by representatives of the EPA regional administrator.

(3) Plans will be reviewed and amended, as required by the EPA regional administrator (per the procedures in 40 CFR 112.4), when—

(a) A facility has spilled more than 1,000 U.S. gallons of oil into the navigable waters in a single spill; or,

(b) Two reportable spills have occurred within any 12-month period.

(4) Notwithstanding the requirements of (3) above, SPCCPs will be reviewed and amended at least once every 2 years or whenever there is a change in facility design, construction, operation, or maintenance that affects the potential for spills of oil or hazardous substances.

(5) Completed SPCCPs will be fully implemented to include required construction; installation of equipment; periodic health monitoring; and SOH training of personnel. Newly activated installations will prepare and implement an SPCCP before operations commence.

(6) Spill prevention briefings for operating personnel will be conducted at intervals frequent enough to ensure adequate understanding of the SPCCP. These briefings will be conducted at least once a year; it is recommended to combine them with the required yearly ISCP training. Further guidance on SPCCP briefings is found in 40 CFR 112.e(10).

8-5. Installation spill contingency plan

a. The NCP was established under the CWA, as amended, and CERCLA, as amended, and it requires Federal agencies to make plans for emergency response to the spills of oil and hazardous substances for which they are responsible. ICs will maintain an ISCP to identify resources for cleaning up spills at installations and activities, and will also be prepared to provide assistance to other agencies when requested. Further, AR 500-60 provides policy and guidance for Army response, per the NCP, to assist the EPA and USCG in spills not due to Army activities.

b. As a minimum, the ISCP will contain—

(1) Provisions specifying the responsibilities, duties, procedures, and resources to be used to contain and clean up spills.

(2) A description of immediate response actions that should be taken when a spill is first discovered.

(3) Identification of resources for possible use by an RRT when implementing the NCP.

(4) The name, responsibilities, and duties of the IOSC. The IOSC is the official that coordinates and directs Army control and cleanup efforts at the scene of an oil or hazardous substance spill due to Army activities on or near the installation. This official will be designated by the IC (see para 1-25g(13)).

(5) The specifications, composition, and training plans of the IRT. The IRT acts as an emergency response team, performing response functions as defined and directed by the IOSC. A preplanned location for an installation response operations center will be identified in the ISCP.

(6) Procedures for IRT alert and mobilization, including provisions for—

(a) Access to a reliable communications system for timely notification of an oil or hazardous substance spill.

(b) PAO involvement.

(7) A current list of the persons and alternates who are on call to receive notice of an oil or hazardous substance spill. The list should contain—

(a) The names, positions, telephone numbers, and addresses of key contact people.

(b) The names, telephone numbers, and addresses of key organizations and agencies to be notified when a discharge is discovered.

(8) Surveillance procedures for early detection of oil and hazardous substances spills.

(9) Quantities and locations of personnel, equipment, vehicles, supplies, and material resources. Plans will identify specific actions for various magnitudes of potential spills identified in the SPCCP inventory lists, and will also provide a prioritized list of various critical water uses that must be protected in the event of a spill.

(10) Other resources available to an installation to clean up or reclaim a large spill due to Army activities, if such a spill exceeds the response capability of the installation (for example, assistance from the USCG, Air Force, Navy, or private contractors). A list will be included of the outside contractors that can expeditiously contain, recover, and remove harmful quantities of oil or hazardous substances spilled as a result of Army activities on or near the installation. The plan will prescribe a prearranged procedure to request assistance and agreements to acquire resources during a major disaster or response situation.

(11) Procedures and techniques used to identify, contain, disperse, reclaim, and remove oil and hazardous substances used in bulk quantity on an installation. Chemicals will be identified that may be used to concentrate, neutralize, collect, disperse, and remove oil or hazardous substances spills. The technical product data on these chemicals will first be provided to and approved by EPA, unless the RRT and the State have given advance approval

for the use of these chemicals. Pollution control actions taken will be per applicable State and Federal regulations, EPA guidelines, and the NCP.

(12) Procedures for reporting, both by telephone and in writing, an oil or hazardous substance spill resulting from Army activities.

(13) Army resources useful to the RRT if Army agencies are asked to aid in the cleanup of a spill not due to Army activities. (For procedures to recover costs encountered during the cleanup of such spills, see AR 500-60.)

(14) A description of safety precautions for known hazardous substances on the installation.

(15) A public affairs appendix that describes the procedures, responsibilities, and methods for releasing information in the event of a spill.

c. Note that much of the information in the SPCCP is extraneous to the emergency response needs of many activities on the installation. Therefore, separate SPCCPs and ISCPs should be developed, with copies of the ISCPs provided at all potential spill sites. Nevertheless, the requirements for a spill prevention plan and a spill contingency plan for each installation or activity may be satisfied by a single plan containing two distinct sections, the SPCCP and the ISCP.

d. Regarding implementation and review of ISCPs—

(1) Installations and activities will maintain a current ISCP which will be reviewed and evaluated at least once every 3 years, per 40 CFR 112.5. The cited regulation requires that any change must be entered into the plan within 6 months of the change, with the approval of a PE. At the least, this means that any amendment made to the SPCCP must be reflected in the ISCP.

(2) The IC, coordinating with officers responsible for implementing the SPCCP, will provide yearly training to test the effectiveness of ISCP personnel and equipment. The purpose of this training is to ensure timely and effective response in case of a spill.

(3) Copies of ISCPs with changes will be kept on file at the installation in the emergency operations center; the DEH; the PVNTMED service; the safety office; the security office; the P, and at each site that stores, handles, or transfers oil or hazardous substances, for which there is a reasonable possibility of a significant spill.

(4) Installations and activities will establish a thorough SOH training program per OSHA, 29 CFR 1910, 1917, and 1926, as well as a periodic health monitoring program for military and civilian personnel, including project managers, employed or otherwise responsible for carrying out official duties at oil and hazardous substance spill sites. Assistance in locating appropriate training can be provided by USAEHSC and USATHAMA.

Table 8-1
Required reporting by telephone in spill emergencies

Release or discharge	Telephone number	Reportable quantity lists	Paragraph in this regulation
Oil	NRC, 24-hrs (Note 1) 1-800-424-8802 (Washington DC area, (202) 267-2675 or (202) 426-2675) AOC, 24-hrs (202) 697-0218 Next higher Army HQ: (fill in telephone number) USATHAMA (301) 671-4714/2427	40 CFR 110	8-4
Hazardous substances	same as for oil	40 CFR 302	8-4
Extremely hazardous substances (Note 2)	same as for oil, plus:	40 CFR 355	8-4

Table 8-1
Required reporting by telephone in spill emergencies—Continued

Release or charge	Telephone number	Reportable quantity lists	Paragraph in this regulation
	LEPC: (fill in telephone number)	AR 50-6 40 CFR 61 40 CFR 300.6	8-1c 4-2b 8-4

For emergency information: CHEMTREC, 24-HOURS 1-800-424-9300 (Note 2)

Key: AOC: Army Operations Center
LEPC: Local Emergency Planning Committee
NRC: National Response Center
USATHAMA: U.S. Army Toxic and Hazardous Materials Agency
CHEMTREC: Chemical Transportation Emergency Center

Notes:

1. The NRC will notify the U.S. Coast Guard and EPA. Includes chemical surety material and toxic gases.
2. In the absence of an emergency, information may be obtained from CHEMTREC between 0900 and 1600 Eastern Standard Time by calling 202-887-1255.

Chapter 9 Environmental Restoration Programs

9-1. Scope

- a. This chapter implements—
 - (1) The remedial response aspect of CERCLA, as amended by SARA.
 - (2) Executive Order 12580, Superfund Implementation, January 23, 1987.
 - (3) The corrective action aspects of RCRA, section 3004(u), as they pertain to inactive solid waste management facilities.

Note: A facility is defined by section 101(9) of CERCLA.

b. The objective of this chapter is to provide efficient and effective management and execution of the IR and FUDS programs for the identification, investigation, and cleanup of hazardous materials contamination associated with past activities on property controlled by the Army or formerly used by DOD, and/or beyond the boundaries of such property when it occurred as a result of migration from a source on the property. Emphasis and highest priority will be given to those sources that pose actual or imminent danger to human health or safety or are included or proposed for inclusion on the NPL.

c. This guidance applies to—

(1) The IRP for real property under U.S. jurisdiction and currently controlled by the Army, including—

(a) Active, semi-active, and inactive Army and USAR installations, activities, and units;

(b) ARNG installations, activities, and properties supported with federally-appropriated funds; and,

(c) Contractor activities, lessees, and other tenants.

(2) The FUDS program, for real property under U.S. jurisdiction and formerly controlled by DOD.

d. Although activities on foreign soil that are not subject to U.S. law are not eligible for DERA funding, OCONUS commanders are urged to implement this guidance as fully as possible, consistent with host nation laws and international agreements, and in a spirit of cooperation, particularly with regard to the identification of past hazardous waste disposal activities.

e. The guidance in this chapter does not apply to—

(1) Contractor-owned and contractor-operated facilities that are not on real property controlled by the Army, that produce or have produced materials or perform or have performed services for the Army.

(2) Properties controlled by the nonmilitary civil works functions of the Commander, USACE.

9-2. Environmental restoration programs requirements The Army will—

a. Protect the health and safety of installation personnel and the public and the quality of the environment by identifying and addressing, in a timely manner, the threats posed by uncontrolled hazardous materials on or from Army activities and FUDS.

b. Comply with Federal, State, regional, and local requirements applicable to the cleanup of hazardous materials contamination, including related worksite SOH requirements and NEPA provisions.

c. Promote the establishment of a comprehensive public affairs program to keep the public informed of the activities and problems in the IR and FUDS programs; and, per NEPA, solicit public comments on proposed actions and consider public comment in decisionmaking.

d. Keep EPA and State regulatory agencies informed of IR and FUDS program activities and solicit their comments regarding Army plans and reports.

e. Establish Army policy consistent with DOD policy pertaining to planning, programming, budgeting, and execution for the IR and FUDS programs.

f. Establish policies for executing agencies to carry out the approved annual environmental restoration work plan.

g. Emphasize the acquisition of resources, including the funds, personnel, SOH training, and periodic health monitoring necessary to meet regulatory requirements, statutory deadlines, commitments to regulatory agencies and the public, and other DERP goals.

h. Address explosive ordnance as defined in AR 75-14, and unexploded ordnance as defined in AR 75-15, in CERCLA activities.

9-3. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requirements Section 211 of SARA, 10 USC 2701-2707, which establishes DERP, requires DOD to—

a. Manage DERA in order to identify, investigate, and clean up contaminants from hazardous and toxic materials (hazardous materials, hazardous substances, and hazardous waste), including chemical, biological, and low-level radiological wastes and unexploded ordnance (UXO), and correct other environmental damage that poses actual or imminent endangerment to the public health or safety or to the environment.

b. Carry out a program of research, development, and demonstration that includes—

(1) Means of reducing the quantities of hazardous waste generated by activities and facilities under the jurisdiction of DOD.

(2) Methods of treatment, disposal, and management (including recycling and detoxifying) of hazardous waste of the types and quantities generated by activities and facilities currently and formerly under DOD jurisdiction.

(3) Identification of more cost-effective technologies for cleanup of contamination from hazardous materials.

(4) Toxicological data collection and methodology on risk of exposure to hazardous waste generated by DOD.

(5) Testing, evaluation, and field demonstration of any innovative technology, processes, equipment, or related training devices that may contribute to establishment of new methods to control.

contain, and treat hazardous materials. This is to be carried out in consultation and cooperation with, and, to the extent possible, in the same manner and meeting the same standards as, the testing, evaluation, and field demonstration carried out by EPA, through its office of technology demonstration.

c. Notify EPA, State, and local authorities concerning—

(1) The discovery of a release or threatened release of hazardous substances.

(2) The extent of the threat to the public health and to the environment associated with the release or threatened release of HTM.

(3) Proposals for carrying out a response action with respect to the release or threatened release of HTM.

(4) The initiation of any necessary response action with respect to the release or threatened release of HTM and the commencement of each phase of such actions.

d. Provide EPA, State, and local officials an opportunity to review and comment on notices, proposals, and actions.

e. Establish a TRC, when possible and practical, to facilitate technical management in working sessions and to promote public participation in periodic public information meetings.

f. Provide an annual report to Congress on progress made during the preceding year in implementing the DERP. This report must include—

(1) A statement, for each installation under DOD jurisdiction, of the number of known sources of contamination from hazardous substances.

(2) The status of response actions contemplated or undertaken at each such source.

(3) The specific cost estimates and budgetary proposals involving response actions contemplated or undertaken at each source.

(4) A progress report on response actions at sources other than those included on the NPL (para 9-9).

9-4. Defense environmental restoration program coverage

Funding for DERP (IR and FUDS) is provided by DOD through Deputy Assistant Secretary of Defense for Environment (DASD(E)) for the cleanup of contaminants and activities that are located in the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, and any other territory or possession over which the United States has jurisdiction. Further qualifications, subject to DOD and Army priorities for using DERP funding, are listed below.

a. The following contaminants are eligible for DERP funding:

(1) Hazardous substances as defined under CERCLA, Sec 101 (as amended by SARA), that is, with the addition of POL.

(2) Chemical, biological, and, if consistent with CERCLA criteria for funding eligibility, low-level radiological wastes.

(3) Military-unique materials such as explosive ordnance compounds.

(4) UXO, but only where access cannot be so restricted that the UXO is considered an imminent threat to human health and safety.

(5) Asbestos, but only where it is a co-contaminant with hazardous or toxic materials in a building, structure, or fixture that is included in an IR or FUDS project.

b. The following activities are eligible for DERP funding:

(1) Environmental restoration programs, subject to DERA funding priorities—

(a) Investigations to identify, confirm, and determine the risk to human health and the environment; feasibility studies; negotiations for interagency agreements, records of decision, and other instruments to comply with this chapter; remedial action plans and designs; and removal or remedial actions.

(b) Research, development, and demonstrations of innovative and cost-effective technologies for cleanups.

(c) Expenses associated with cooperative multi-party cleanup plans and activities, that is, third-party sites in the FUDS program where DOD responsibility for contamination has been indicated

either by a preliminary assessment performed by DOD or by receipt of a notice from either EPA or its State counterpart indicating that DOD appears to bear some responsibility for the contamination.

(d) Remedial actions to protect or restore natural resources damaged by contaminants addressed in a above.

(e) Cleanup of low-level radioactive waste sites that have been identified as IRP sites.

(f) Program management and support expenses associated with the IR, FUDS, and hazardous waste minimization program including civilian salaries, training, and management information system activities.

(g) Capital costs of long-term remedial action and monitoring systems.

(h) Operating expenses for the first 10 years of long term remedial action operating units and remedial action monitoring systems in the IRP.

(i) Immediate actions necessary to address health and safety concerns, such as providing alternative water supplies or treatment of contaminated drinking water, when the hazard results, or has been reasonably determined to result, from a release from property either controlled by the Army or formerly used by DOD.

(j) Studies to locate USTs not used since January 1984, and activities to determine actual or potential contamination.

(k) Cleanup of contamination believed to be harming human health and the environment resulting from USTs not used since January 1984, unless such cleanup is incidental to tank replacement.

(l) Cleanup of contamination believed to be harming human health and the environment resulting from UST leaks that occurred prior to 1 March 1986, unless the cleanup is incidental to tank replacement. The IC must have evidence that the tanks were leaking prior to 1 March 1986.

Note: Beginning in FY92, funding for cleanups for currently operating tanks will be programmed in appropriations other than DERA.

(m) Response action at a solid waste management unit that would meet the definition of a past disposal site under CERCLA/SARA.

(n) CERCLA response actions necessary prior to base closure, realignment, or excess of real property assets required by Sec 120(h) for disclosure in deeds and transfer agreements in transactions concerning real property that is controlled by the Army (para 12-5d(1)(a)).

(o) Studies and support for R&D of innovative and cost-effective technologies for cleanup of hazardous waste sites, for DOD-unique wastes or other techniques widely applicable to DOD.

(p) Response actions at third party sites where DOD is in receipt of a potentially responsible party (PRP) letter.

(q) State support services provided per a signed interagency agreement or a cooperative agreement under DOD and State memorandums of agreement (DSMOA).

(2) Other hazardous waste operations.

(a) Procurement of equipment and conduct of studies to minimize hazardous waste generation, that have broad Army-wide applicability or that substantially reduce wastes within a single component.

(b) Data collection training and technology transfer efforts that support waste minimization.

(c) Research, development, studies, and technology demonstrations related to HAZMIN, treatment, recycle, or disposal needs.

(d) Studies and support for toxicological data collection and methodology on risk of exposure to hazardous wastes.

(e) Studies and support for commonly found unregulated hazardous substances by the Department of Health and Human Services (HHS) (ATSDR) and for health advisories by EPA.

(3) Building demolition and debris removal.

(a) The demolition of buildings or the removal of debris that constitute safety hazards on lands formerly used by DOD, provided such lands were transferred to State or local government or native corporations.

(b) The demolition of buildings or the removal of debris that constitute an imminent safety hazard on active installations.

(c) Expenses incident to complete restoration, such as restoration of natural resources, are included if such expenses are clearly and directly related to the demolition and debris removal.

c. The following activities are not eligible for DERP funding:

- (1) Closing or capping sanitary landfills unrelated to a hazardous waste cleanup action.
- (2) RCRA closures that are associated with current waste generation and disposal facilities do not meet the definition of response actions under CERCLA/SARA.
- (3) Construction of hazardous waste storage, transfer, treatment, or disposal facilities except when part of a CERCLA/SARA response action.
- (4) Maintenance, repair, or operation of existing treatment, storage, or disposal facilities currently in use.
- (5) Hazardous waste disposal operations including associated management and operational costs except when part of a DERA response action.
- (6) Cost of recurring service contracts for waste reduction/minimization.
- (7) Testing or repair of active USTs.
- (8) Cleanup of contamination believed to be harming health and the environment resulting from USTs in use after January 1984, unless evidence exists that shows contamination occurred prior to 1 March 1986.
- (9) Costs for testing, storing, disposing of, or replacing PCB transformers.
- (10) O&M properly chargeable to base operations.
- (11) Operating expenses in the IRP for long term remedial action operating units and monitoring systems, after the first 10 years (b(1)(h) above). Also, the reporting on remedial actions that EPA requires at 5-year intervals is not eligible for DERA funding.
- (12) Spill prevention and containment measures for currently operating equipment and facilities.
- (13) Cleanup costs of covered or required to be covered by SPCC plans. See chapter 8, paragraph 5-4c, and paragraph 12-7 for hazardous or toxic materials, substances, or wastes illegally dumped by a non-Army party onto Army-controlled property.
- (14) Demolition or debris removal as part of a new construction project.
- (15) Investigation, identification, and removal of previously unknown deposits of hazardous or toxic materials encountered during excavation of a military construction site.
- (16) Environmental baseline studies (EBS) in real property transactions, and NEPA analyses in base closure activities, except for the part of such study or analysis that constitutes a SARA section 120(h) assessment (b(1) above).
- (17) Overseas IR program activities not subject to U.S. law.
- (18) Cost of replacing leaking USTs.
- (19) Costs of asbestos surveys, containment, removal or disposal, except where incidental to a DERP response action.

d. Exceptions to the provisions of this paragraph must be requested in writing and forwarded through the chain of command to HQDA (ENVR-E) WASH DC 20310-2600, for review and coordination, and for recommendation to the ACE. Approvals are granted by the ACE with the concurrence of DASA(ESOH). The written request must justify the estimated cost of the project, the need for funding during the current FY, and the need to use DERA funds.

9-5. Formerly used defense sites program

a. *Background.* Recent defense appropriation acts have included provisions for environmental restoration activities at properties formerly controlled or used by DOD. The FUDS program addresses hazardous materials contamination and, under certain conditions, may include the removal of unsafe buildings and debris (para 9-4b(3)(a)).

b. *Responsibilities.* DASD(E) establishes program policy and exercises program approval authority over project initiation, ROD para 9-7e(3) and interagency agreements (para 9-7e(5)). Regardless of which military service formerly controlled the property, the Army has been designated by DASD(E) to administer this program. The FUDS program is managed and funded by the ACE.

through AEO, and executed by CEMP, separately from the Army's IRP (para 1-14(2)).

c. *Related FUDS project.* A related FUDS project, for the purpose of this chapter, is a property formerly controlled by the Army and now included in the FUDS program, that is adjacent or near an installation that is included in the IRP and that, because of a high level of public interest, has been designated critical by the ACE (para 9-9b). In such an instance, the IC will—

- (1) Request the responsible USACE FOA to provide to the installation for review and concurrence all draft public affairs materials, proposed study and design plans, and draft reports concerning the FUDS project.
- (2) Convene and conduct a TRC, or the IC may enter into an agreement with the USACE FOA to do so. Both the FOA and the installation will be represented on the TRC (para 9-10).
- (3) Ensure that the installation remedial investigation/feasibility study (RI/FS) study reports and final report will, if possible, each include a section about the FUDS project.

9-6. Funding

a. *Background.* In FY84, Congress established DERA by consolidating funds from various military service accounts into one DOD account. In FY86, Congress established a transfer account, which is essentially a DOD holding account. DERA funds may be transferred from the central DOD account to any appropriations account; that is, OMA, MCA, RDTE, and other procurement, Army (OPA). Once transferred to a particular appropriation, the funds are merged with and available for the same purpose and for the same time period as the account or fund to which the funds have been transferred. DASD(E) manages the annual appropriation and determines its use and distribution among the military services. DOD has established programming and reporting procedures that are unique to DERA, including—

- (1) Programming at the facility- or project-specific level.
- (2) DOD priorities for eligible projects.
- (3) Programming through the headquarters of the military services.
- (4) Quarterly and annual reporting of implemented projects.

b. *Funding procedures.*

(1) The ACE has oversight responsibility for all aspects of planning, programming, budgeting, and execution of Army DERA funds. DASA(ESOH) provides information for the DOD and the President's budget submissions, based on the approved environmental restoration work plan and the IR and FUDS 5-year programs. For these purposes, Army activities and executing agencies will identify DERA requirements per policy established by DASA(ESOH) and DASD(E), and the procedures directed by the ACE.

(2) Draft annual work plans and 5-year programs for the IRP and the FUDS program will be submitted to HQDA (ENVR-E) WASH DC 20310-2600, for review and for recommendation to the ACE. After approval by the ACE, the draft IRP and FUDS annual work plans and 5-year programs will be included by USATHAMA in the annual environmental restoration work plan. An annual or revised annual work plan will be considered a draft until the ACE has approved it in its final form and the DASA(ESOH) has concurred. DASA(ESOH) forwards the approved annual work plan to DASD(E). For preparation of work plans, these procedures will be followed—

(a) MACOMs and ICs will include DERA requirements in the A-106 report (para 12-11b), or other normal programming process, as directed by the ACE.

(b) PM, RMA, will forward through command channels a 5-year cleanup program and a draft annual work plan that identifies DERA-eligible requirements to ensure compliance with negotiated settlements, consent decree, or other judicial directive.

(c) CEMP will identify FUDS program requirements in a draft annual work plan and a 5-year program.

(d) USATHAMA will use the A-106 report, the draft RMA work plan, HAZMIN projects (paras 6-6c(2)(b) and 9-4b(2)(a)), and other data to develop a draft annual IRP work plan and a 5-year IR program.

(3) In addition to the requirements in (2) above, work plans will include the following—

(a) Identification of all DERA requirements, including HAZMIN projects, by appropriation and budget line item.

(b) Defense priority model scores for remedial design, interim remedial action, and remedial action projects on the annual IRP and FUDS work plans.

(c) A list of unfunded projects that could be obligated in the plan year, subject to availability of funds.

(4) Other funding considerations are listed below.

(a) Multi-year appropriations (OPA and RDTE) are to be requested only in the FY in which the funds are expected to be obligated. Requests for procurement funds must include the line item number (LIN) and/or NSN of the equipment being procured.

(b) Requirements that are classified as construction should be programmed in the normal MCA process. Only if the MCA procedures would result in a significant delay in project implementation, and if the project qualifies as a high DERP priority, may DERA funding be proposed. Requests for transfers from DERA to MCA will be forwarded through command channels in writing to HQDA (ENVR-E). The request must justify the estimated cost of the project, the need for funding during the current FY, and the need to use DERA funds.

(c) OM&M of an IRP remedial action site can be paid for with DERA funds for 10 years beyond installation of an operating unit or completion of a one-time remedial or interim remedial action. Beyond 10 years, OM&M must be programmed and budgeted in the installation's normal operating account.

(5) Funds are transferred from DERA to Army appropriations during the year of execution, as follows:

(a) Funds are distributed for execution, based on the approved work plan, per procedures established by the ACE and consistent with policy set by ASA(FM) and DASA(ESOH).

(b) The Army Budget Guidance Manual provides for a continuation of funding for Army environmental restoration activities either under a continuing resolution authority (CRA) or pending the transfer of funds from DERA to Army appropriations. The level of funding will be subject to the constraints of the CRA and the level of funding approved by the DASD(E) for the Army DERA program.

(c) DERA transfer account language (10 USC 2703(c)) directs that funds transferred from DERA may be used only for environmental restoration. Reprogramming to use these funds for matters not addressed in paragraph 9-4 a or b, or as part of a deferral or sequestration action, is not allowed unless so directed by Congress.

(6) Activities that receive DERA funding will provide the following information, by project and subproject, to HQDA (ENVR-E):

(a) Monthly obligation plan, by appropriation.

(b) Quarterly obligation status.

(c) Quarterly status of work plan accomplishment.

(d) Quarterly proposed changes in the obligation plan and work plan, including reprogramming requests.

(7) All uncommitted funds in excess of 15 percent and \$200,000 per subproject in the IRP, and 15 percent per subproject in the FUDS program, will be reported monthly to HQDA (ENVR-E).

(8) All funds not obligated by 30 June will be reported by 15 July to HQDA (ENVR-E). Funds that cannot be obligated during the current FY must be transferred back to the DERA account through HQDA (ENVR-E) prior to expiration.

(9) DASD(E) approves DERP activities at sub-element level. Funding may not be reprogrammed between sub-elements without DASD(E) approval. Sub-elements are—

(a) IR.

(b) Building demolition and debris removal.

(c) Other hazardous wastes (HAZMIN).

(10) DASD(E) approves a floor for the FUDS program. Therefore, DA may not obligate less than that amount for FUDS.

9-7. Program concept

a. Screening for past use of hazardous substances and the potential for contamination (or reassessment, if appropriate) will be conducted at—

(1) All major Army installations and subinstallations (as listed in the DOD base structure report for the current budget year, by the Assistant Secretary of Defense of Production and Logistics, or as identified by MACOMs/NGB).

(2) Other properties either controlled by the Army or formerly used by DOD, where contamination seems likely, based on the nature of known activities.

b. The IRP and FUDS programs will be conducted—

(1) Consistent with the process described in the NCP, 40 CFR parts 300.61-300.70 (see para 9-9 for properties included or proposed for inclusion on the NPL), and

(2) If applicable, consistent with the substantive requirements of the RCRA corrective action process (as described in the EPA document entitled, The RCRA Corrective Action Strategy, October 1986 (EPA Document No. 530/SW-86-045), or its successor, as appropriate.

c. All on-the-ground work to carry out the NCP/RCRA requirements and the IRP and FUDS projects will be conducted per NEPA. Depending on the project (that is, work associated with the preliminary assessment/site inspection (PA/SI) or RI/FS) and its potential for environmental impact, preparation of the CERCLA/SARA support documents will adhere to the environmental documentation requirements prescribed in NEPA (para 12-2; AR 200-2; and DOD Directive 6050.1).

d. At each phase of response, coordination will be conducted with Federal, State, regional and local regulatory agencies, including notification per CERCLA section 103c, and notice of environmental restoration activities, per 10 USC 160, section 2705.

e. A community relations program (see para 9-11) will be established at each IR or FUDS project where an RI/FS or interim or permanent RA is planned. Unless an emergency situation exists, the affected public will be afforded an opportunity to review and comment on the proposed action, and comments will be considered prior to initiation of the action.

f. In all environmental restoration actions, the following procedure will be carried out—

(1) PA/SI. The PA/SI is an inventory of all of the real property in question; that is, in the IRP, the property over which the IC or other Army entity has control; in the FUDS program, the property named in the approved annual work plan. The purpose of the PA/SI is to identify potential sources of contamination and to indicate possible endangerment to public health, safety, and welfare, and the natural environment.

(a) Readily available information on current and former activities and land uses must be examined, including the installation EIS and its supporting materials, to determine the presence, for instance, of historical or archaeological resources, flood plains or wetlands, endangered species, or critical habitat. Field reconnaissance, sampling, and analysis will address the entire acreage and the structures on it (para 12-2). Where possible, individual sources of contamination will be identified. At the conclusion of the PA/SI phase, determination is made as to whether a remedial investigation (RI), a one-time removal action, or no action should be undertaken.

(b) At the beginning of the preliminary assessment (PA), a program of full coordination with Federal and State regulatory agencies will be established. If a site investigation is required, an environmental analysis of the investigation will be prepared. This analysis will take the form of an EA, an EIS, or a CX. (See AR 200-2; app A, for CXs; and para 12-2, for types of actions that exceed the definition of casual field reconnaissance and therefore require an EA or EIS.)

(c) If indications of contamination have been found that lead to the decision to proceed to the RI stage, the analysis and the RI must be prepared per the requirements of NEPA, which are described in AR 200-2 and Technical Reports N-92 and N-130, USACERL, USACE. The cover sheet of the PA/SI report must bear this legend: In accordance with 40 CFR 1500, this document

is intended to comply with NEPA of 1969. The public notice on the availability of the report will state the same intent.

(2) RI/FS. The RI may involve comprehensive studies of the acreage and the structures on it, where the PA/SI report suggests that it is necessary to characterize the nature and extent of potential contamination. In the feasibility study (FS), data collected during the RI are analyzed and remedial alternatives are identified, including the no-action alternative.

(a) Lead executing organizations for IRP projects may be the installation, a USACE FOA, the RMA PM, and/or USATHAMA. For sites designated critical by the ACE or DASA(ESOH), USATHAMA will be the lead organization. For all other environmental sites, the lead organization will coordinate fully with USATHAMA.

(b) The RI and FS should be conducted concurrently, if possible.

(c) If necessary and not otherwise available, relevant technology and analytical criteria may be developed as part of the RI/FS.

(d) The FS report will discuss the issues and risks involved and the potential environmental impact of each of the analyzed alternatives, and will propose a preferred remedial alternative. This preferred alternative should provide for cost-effectiveness, including consideration of long term OM&M, mitigation and minimization of endangerment, and adequate protection of human health and the environment. Further, the preferred alternative must attain or exceed the State and Federal ARARs (NCP, Sec 300.68i) or comply with the ARAR waiver provisions of SARA section 121(d)(1)(4). In addition—

1. A health risk assessment per EPA guidance will be prepared for the review and approval of TSG. A public participation program (para 9-11) will also be conducted and a TRC may be convened (para 9-10).

2. The FS report must meet the requirements of NEPA (AR 200-2); the cover sheet of the report must bear this legend: *In accordance with 40 CFR 1500, this document is intended to comply with NEPA of 1969. The public notice on the availability of the report will state the same intent.*

3. An RI/FS must be started not later than 6 months after an installation has been added to the NPL.

(3) ROD. After the publication of the FS report, a ROD is prepared according to EPA guidelines (40 CFR 300). The ROD is signed by a representative of the State (or by the EPA regional administrator if IR or FUDS property is included or proposed for inclusion on the NPL) and a representative of DOD; that is—

(a) In the IRP, the ROD is signed by the IC. In the case of an IRP site included or proposed for inclusion on the NPL, the ROD is signed by the IC, an EPA representative, and also by DASA(ESOH) after review by HQDA (ENVR-E) and concurrence by the ACE.

(b) In the FUDS program, the ROD is signed by the Commander of the executing USACE FOA and the DASD(E), after review by HQDA (ENVR-E), and concurrence by the ACE and DASA(ESOH).

(4) Removal action and interim remedial action (IRA). Before the initiation and/or completion of the RI/FS and the selection of a permanent remedy, a removal action may be undertaken if it would be cost-effective and consistent with the anticipated permanent remedy. If proposed to be an operating unit, extensive in scope, costly, time-consuming, or controversial, such a removal action will be considered an IRA. Before an IRA can be initiated, an individual RLFS with ROD (para 9-7e(3) above) and inter-agency agreement (para 9-7e(5) below) must be completed, unless the regulatory agencies agree to allow other decision documentation to be completed.

(5) IAG. Per SARA, Sec 120, an IAG between the Army and EPA must be signed within 180 days after completion of the FS report (for IAG procedures, see para 12-6).

(6) Remedial action (RA). Within 15 months after the completion of the FS report and ROD, the selected alternative must be designed and substantial continuous on-site activity must be underway.

(a) In instances where remedial action is necessary, alternatives will be identified and evaluated per SARA, section 121; the NCP, section 300.68; and NEPA. The final selected action will be approved by DASA(ESOH), in the IRP, and the DASD(E) in the FUDS program, and will be consistent with the requirements of SARA section 121 and NEPA, including—

1. Protection of human health and the environment.
2. Engineering/technical feasibility.
3. Long term effectiveness.
4. Life-cycle cost.
5. Public acceptability.

(b) For IRAs and RAs, no environmental permits are required. Instead, the remedy must meet (as ARARs, per f(2)(d) above) all substantive requirements of any permits that would otherwise be applicable.

(c) Before proposing the preferred RA in the FS report, the executing agency will follow this procedure—

1. In the IR program, gain concurrence of the MACOM (for ARNG, NGB), and forward a written request to HQDA (ENVR-E) WASH DC 20310-2600, for review and recommendation, and for concurrence by the ACE and approval by DASA(ESOH).

2. In the FUDS program, gain concurrence of CEMP, and forward a written request to HQDA (ENVR-E), for review and recommendation, and for concurrence by the ACE and DASA(ESOH), and approval by DASD(E).

3. At the next quarterly review, the respective annual work plan will be revised accordingly (para 9-6b).

(d) If needed, long term OM&M for an IRP project should be planned, programmed, and budgeted for the use of non-DEFA funding beyond the first 10 years' coverage by DERA. EPA requires reporting at 5-year intervals after completion of an RA (40 CFR 300). The costs associated with such reporting will not be funded by DERA. Because the Army's DERA authorization is intended to be discontinued after the last of the IRP RAs has been put through 10 years' operation, any costs incurred after 10 years' OM&M must be covered by other funds (para 9-4c).

9-8. Off-site response actions

In the IRP, the Army, to fulfill its CERCLA responsibilities per EO 12580, has the authority to conduct response actions outside of the installation boundaries, where the installation is reasonably considered the sole or the major source of the release. In the FUDS program, the procedures stated in this paragraph will be followed as far as they are applicable. The same types of activities may be conducted off-site as are conducted on an environmental restoration site; that is, studies and contamination control/clean-up, including construction. However, off-site actions are complex and require extensive coordination. Because of the lack of Army control over the off-site property, and the necessity for increased interaction with the public, HQDA (for FUDS, DOD) approval is required (b below). The procedures for off-site response actions are as follows—

a. Off-site response actions may be considered when—

(1) Data indicate that contamination is migrating from a source on Army-controlled property (or FUDS site) and may be affecting off-site resources; that is, contaminants are detected at the boundaries of the property.

(2) Contamination is detected beyond the boundary of the environmental restoration property, and there is evidence the property is the sole source or a major source (for example, the contaminants are military-unique; there are no other potential sources in the area; or, other sources in the vicinity are insignificant in terms of the quantities of contaminant, when compared to past land use and disposal practices).

b. When off-site migration is suspected, the actions described below will be taken.

(1) Notification.

(a) The IC (for FUDS, the commander of the USACE FOA), in consultation with USATHAMA, will immediately follow the requirements of paragraph 8-4, and will also notify, through command channels, the MACOM (for ARNG, NGB, and for FUDS,

USACE) environmental, legal, and public affairs staffs of the discovery.

(b) The MACOM will notify AEO immediately by telephone and, within 15 days of discovery, provide to HQDA (ENVR-E) WASH DC 20310-2600 a written summary of facts.

(c) Immediately after notifying the MACOM, the IC (or the commander of the USACE FOA) will notify and consult with the EPA regional office and with State and local authorities, per CERCLA, section 102, and 10 USC 2705.

(2) *Response plan.*

(a) Where imminent or actual endangerment of human health is suspected, the MACOM (or USACE FOA) telephone report to AEO, required in (1)(b) above, will include a description of the proposed emergency response action (for example, provision of a temporary or alternate drinking water supply, sampling of private wells, or drilling for monitoring wells), the estimated cost, and the expected starting date. AEO will review the request and make recommendations; the concurrence of the ACE and the approval of DASA(ESOH) (for FUDS, also the approval of DASD(E)) are needed before the proposed action can be undertaken. If the proposal is approved, AEO will so notify the MACOM (or USACE FOA) by telephone and will effect the necessary funding action. Within 7 calendar days, the MACOM (or USACE FOA) will send to HQDA (ENVR-E) a written acknowledgment of the approval, with descriptions of the problem and the proposed action, and with a schedule for carrying out the emergency response action.

(b) Where no emergency action needs to be taken, the MACOM (or USACE FOA) will, within 45 calendar days of the discovery, provide to HQDA (ENVR-E), a proposed response plan that includes the technical response (studies, alternate water supplies, etc.), regulatory notification, community relations activities, and an estimate of funding requirements. Projects requiring funding will be clearly identified so that they may be incorporated into the work plan.

(c) The IC will seek permanent solutions so as to minimize the Army's future commitments and liability. Off-site response actions may involve construction (that is, alternate water supply system or water treatment system). In these instances, nonmilitary and military construction options should be considered.

(d) The off-site response plan will be drafted by the installation staff and coordinated with EPA and state and local authorities, whose assistance will be sought in matters such as—

1. Planning and conducting investigations; in particular, the sampling of private water supplies.

2. Determining when alternate water supplies are needed, identifying the appropriate water supply option, and providing alternate supplies.

3. Providing information to the public.

4. Ensuring that the plan is consistent with the NCP.

5. Working with local governmental authorities to obtain access to off-site well-drilling sites, as needed.

(e) Within 15 calendar days of receipt of the response plan, AEO will inform the MACOM (or USACE) as to whether the response plan has been approved. AEO will review the request and make recommendations; the concurrence of the ACE and the approval of DASA(ESOH) (for FUDS, also the approval of DASD(E)) are needed before the proposed action can be undertaken.

(f) If coordination through the local government and other means to gain access fail, condemnation proceedings may be instituted to acquire sufficient land for investigations or remedial action.

9-9. Army facilities and FUDS properties included on the national priority list (NPL)

CERCLA requires EPA to identify and designate sites, including FUDS, that will be given priority for remedial action. The list of these sites is known as the NPL. The EPA ranking scheme, the hazard ranking system (HRS), determines which sites should be included on the NPL. However, before a site can be listed, it is

subject to public review in the Federal Register. EPA has also established criteria for deleting a site from the NPL upon determination that the site no longer presents a health or environmental hazard. The procedures for identifying NPL sites are—

a. *Site evaluation process.* Installations (for FUDS, the USACE FOA), in consultation with USATHAMA or CEMP, as appropriate, will cooperate with EPA and the States in the site evaluation process by—

(1) Providing existing data on the site, and negotiating a schedule for collecting the additional data that are needed for evaluation.

(2) Reviewing the final HRS scoring of a site. The MACOM/NGB/installation (for FUDS, the USACE FOA) should request the opportunity to review the scoring package and comment prior to publication of the Federal Register notice proposing the site as an addition to the NPL. A technical review in coordination with USATHAMA should be conducted for reasonableness of assumptions and accuracy of data. The scoring package will be reviewed by HQDA, (ENVR-E) before the package is submitted to EPA. If review prior to formal proposal cannot be accomplished, it will be completed during the comment period after publication of the proposal in the Federal Register. Comments should be made to EPA through HQDA, (ENVR-E) within the period required by the Federal Register.

b. *Environmental restoration for sites included or proposed for inclusion on the NPL, and for installations designated critical.* The Army assigns high priority to environmental restoration projects at NPL/proposed NPL sites, and will conduct the actions necessary to eliminate the environmental hazard and seek the deletion of the site from the NPL. A property containing one or more sites included or proposed for inclusion on the NPL will be addressed per the NCP. If other sites on the same property are being considered for environmental restoration, those sites will be studied concurrently with the NPL/proposed NPL sites as much as possible. The RI/FS report will address all of the sites, unless funding constraints have dictated otherwise. For NPL/proposed NPL properties, as well as for installations designated critical by the ACE, specific requirements to be fulfilled (in the IRP, by the IC or USATHAMA as the lead; in the FUDS program, by the USACE FOA) are to—

(1) Appoint an on-scene coordinator/remedial project manager (OCS/RPM) within 30 days.

(2) Establish a TRC (para 9-10).

(3) Implement the community relations and public participation procedures specified in 42 USC 9617 and the NCP, section 300.67 (para 9-11). Appoint a public affairs specialist who will coordinate all releases of information with the MACOM PAO.

(4) Establish an administrative record per 42 USC 9613(k)(1) and 40 CFR 300.

(5) For NPL/proposed NPL, initiate the RI/FS within 6 months after a site has been added to the NPL.

(6) For NPL/proposed NPL, within 120 days, develop and submit to HQDA (ENVR-E) for approval, a response plan that—

(a) Describes actions to be taken.

(b) Is fully consistent with the NCP.

(c) Considers State and local concerns.

(d) Includes milestones.

(e) Includes resource requirements.

The response plan should be modified to keep it current with new information. Significant changes should be coordinated with HQDA (ENVR-E).

(7) For NPL/proposed NPL, prepare and enter into a negotiated site-specific IAG with EPA to address the problem, for the purpose of cleaning up the facility and deleting it from the NPL (para 12-6). The IAG will be based on the Army's response plan, the provisions mandated by Congress, as specified in 42 USC 9620, and the requirements imposed by DASD(E). Because of the complexity and funding implications of IAGs, DASA(ESOH) may decide to establish an Army negotiating team comprised of technical and legal specialists to assist the IC in negotiating IAG with EPA and, where necessary, the State. Disputes that cannot be resolved in the negotiating process should be raised to

successively higher levels of responsibility within the Army and EPA until they can be resolved.

9-12. Technical review committees

a. Per 10 USC 2705(c), a TRC will be established whenever possible and practical to review and comment on the Army's actions with respect to releases or threatened releases of hazardous substances at installations. For the TRC, the rules governing Federal advisory committees do not apply.

b. The IC will be responsible for establishing and designating a chairperson for the TRC as part of any ongoing IRP cleanup program at and related to the installation, if the installation is included or proposed for inclusion on the NPL, or if a high level of community interest has been expressed about the cleanup, or if the ACE has so requested. For a FUDS cleanup, the same criteria apply in deciding whether a TRC should be established; if the decision is affirmative, CEMP will appoint a representative to convene and chair the TRC. The chairperson of the TRC will be an employee of the Army. For related IRP and FUDS activities, see paragraph 9-5c.

c. Meetings of the TRC serve as—

(1) Working sessions of the involved Army and regulatory agency representatives for discussing operational progress, recommended ARARs, problems, and scheduling. If policy questions arise, they should be forwarded through command channels to HQDA (ENVR-E) WASH DC 20310-2600.

(2) Membership generally consists of representatives from the Army, i.e., the installation (or CEMP representative, if the cleanup is a FUDS project, and USATHAMA and the supporting USACE FOA, if the cleanup is an IRP project); the MACOM; the Army contractors for the cleanup; the EPA regional office; the State regional, and local regulatory agencies; local governments of all potentially affected communities; and concerned neighborhood groups.

(3) A charter may be adopted, although none is required. Decisions on matters of technical management are made by consensus of the representatives of the Army and the regulatory agencies. At working sessions, the community representatives are full participants in the discussions. These meetings, which are open to the public, may be held monthly (or as often as needed) during business hours. Each agenda must provide a comment period for any visitors who wish to speak.

(4) Public information meetings. Quarterly, or at milestones in the IRP or FUDS schedule, the TRC will hold a public meeting to report progress and to provide a forum for comments and questions. This meeting should be held in the evening, and the date, time, and location should be convenient for general public attendance.

(5) The following provisions for all working sessions and public meetings of the TRC should be made—

(a) Minutes should be kept of each meeting and should be prepared in written form within 1 week after the date of the meeting. A court reporter is not required.

(b) A public file of TRC documents, including minutes of all meetings, should be maintained in an information repository at a public library or other easily accessible location.

(c) A mailing list should be maintained for individuals and organizations that wish to receive meeting minutes, the upcoming agenda, and other TRC notices. Mailings should be sent in a timely manner.

(d) A telephone number for information should be made known to the public.

(e) Sufficient notice, at least 21 days, should be posted in the print media and by mail, and also by broadcast media if community interest is substantial. The notice should state where to obtain a work product that is available for review and the minutes of previous TRC meetings. The notice should also list the telephone number to call for additional information.

9-13. Public participation and community relations

a. Background. Local communities are likely to be keenly interested in the results of environmental studies conducted under the

IRP and FUDS programs because of the potential impact on their health, environment, and economic well-being. The Army fully supports the public involvement programs that CERCLA/SARA and NEPA establish. Both of these laws and the NCP require the Army to solicit and consider the comments of interested individuals, groups, and government bodies before selecting a remedial alternative. Commanders (for FUDS, CEMP) are encouraged to foster open, two-way communication with the local communities throughout the environmental restoration process.

b. Public participation procedures.

(1) In the IRP, the IC (for ARNG, NGB) will keep the public, including installation residents and personnel and local citizens, informed about IRP projects. The USACE FOA will do the same concerning properties in the FUDS program (for related IRP and FUDS projects, see para 9-5c). This is particularly important if such studies indicate that contamination has migrated off-site or is present on the study property in any significant quantity.

(2) Public participation activities will begin at the initiation of the RI/FS, unless a situation develops during the PA/SI that would dictate earlier involvement.

(3) A community relations or public involvement and response plan is required for all IRP and FUDS properties that have sites included on or proposed for inclusion on the NPL. Such plans will be developed per EPA guidelines, the NCP (40 CFR 300.67), and guidance from the CPA (or, for FUDS, the Public Affairs Chief, HQ USACE) before field work begins on the RI. The plan will be implemented through the ROD stage, after which the plan must be revised to provide for public involvement throughout the remedial design and RA.

(4) When the draft FS report is published announcing the Army's preferred alternative for remedial action, the report will be issued for a 45-day public comment period, which will be publicized through a notice of availability in the news media, with a press release sent to at least one major local newspaper of general circulation. The notice and press release will contain a brief analysis of the FS, explain why the Army has chosen the preferred alternative, and contain sufficient information to provide a reasonable explanation of the proposed plan and the alternatives considered.

(5) The IC (for FUDS, the USACE FOA) will offer an opportunity for a public meeting during the comment period to receive public comment on the report. If a meeting is held, the proceedings should be transcribed and the transcription be made available for public review in an information repository.

(6) Installation and USACE FOA PAOs are encouraged to develop and disseminate materials such as fact sheets and executive summaries.

(7) Per CERCLA/SARA and the NCP, the IC (for FUDS, the USACE FOA) will ensure that EPA and appropriate State and local authorities receive prompt notice of each of the following—

(a) The discovery of releases or threatened releases of hazardous substances on the subject property (chap 8).

(b) The magnitude of any threat to public health and the environment that may be associated with any such release or threatened release.

(c) Proposed response actions with respect to any release or threatened release.

(d) The initiation of each distinct phase of a response action.

(8) Information about the circumstances listed in (7) above will be provided in a timely news release. Additionally, the public will be made aware of the following—

(a) Findings and the availability of documents for review.

(b) Discovery of off-site migration of contaminants.

(c) The signing of site-specific agreements with regulatory agencies (see para 12-6 for requirements concerning environmental agreements).

(9) Before release, all proposed public statements must be coordinated with the IC, the OSC/RPM, the legal and environmental staffs of the installation, and the MACOM PAO, for an IRP project; and with the USACE FOA and the HQ USACE PAO, for a FUDS project.

(10) Final technical reports will be available to the public and easily accessible in the administrative record, if the environmental restoration project is included or proposed for inclusion on the NPL. Whether or not an administrative record is required, the final reports will be placed in a location where the public and the installation's planning staffs may have access.

(a) The reports of the PA/SI and RI will be released in final form after regulatory review.

(b) The FS report and, in turn, the ROD, will be issued for public comment in final draft form after Army review. After comments from the public and the regulatory agencies have been received, and all comments addressed in a responsiveness summary and incorporated, where appropriate, the final document will be released to the public.

9-12. Congressional relations

a. To carry out its environmental restoration programs, the Army will cooperate with members of Congress, and State and local elected officials. Guidelines for accomplishing this are provided below.

b. Congressional relations procedures for both IRP and FUDS programs are as follows—

(1) Notify appropriate Members of Congress and State and local elected officials of significant environmental restoration activities and study findings. Notification may be appropriate when: study findings indicate that contamination presents a threat to public health or the environment; off-site migration of contaminants is detected; major response actions are initiated or completed; or public officials have indicated interest in a specific source of contamination.

(a) The IC (for FUDS, the USACE FOA), in consultation with USATHAMA and the MACOM (NGB or CEMP, as applicable) staff, will identify and recommend subject matter for notification.

(b) Without exception, notification of Members of Congress will be made by the HQDA OCLL (or designee).

(c) Notification of State and local officials will be made by the MACOM or installation (or CEMP, for FUDS activities) after coordination with the HQDA CPA (for IRP) or HQ USACE PAO (for FUDS).

(2) Prompt response will be made to Congressional inquiries and requests for information on the IRP or FUDS activities.

(a) Response will be made in draft by the installation (for FUDS, the USACE FOA) unless otherwise requested by the ACE, and provided, respectively, through the chain of command to HQDA (ENVR-E) and the HQDA OCLL (or designee) which will prepare and deliver the final response. Copies of the final response will be furnished to the IC (or USACE FOA) and HQDA (ENVR-E).

(b) If the Congressional inquiry concerns a matter that is under litigation, however, the inquiry should be sent immediately to HQDA (DAJA-EL) WASH DC 20310-2210 for IRP matters, or to the HQ USACE legal and public affairs offices for FUDS program matters. The public affairs staff for the respective program, in coordination with the HQDA CPA, will prepare and deliver the response.

Chapter 10 Asbestos Management Program

10-1. Scope

a. This chapter prescribes policy and procedures for management of asbestos and asbestos-containing materials (ACM) and wastes worldwide, per—

- (1) CAA, as amended.
- (2) NEPA of 1969.
- (3) OSHA, as amended.
- (4) RCRA, as amended.
- (5) SDWA, as amended.
- (6) SARA of 1986.

(7) TSCA, as amended, including the Asbestos Hazard Emergency Response Act (AHERA) of 1986.

(8) EO 12088 (Federal Compliance With Pollution Control Standards).

(9) EO 12114 (Environmental Effects Abroad of Major Federal Actions).

b. To control asbestos (including all AMC, friable and nonfriable), and to minimize environmental release and subsequent occupational and incidental exposure, the objectives below must be achieved—

(1) Exclude asbestos from all DA procurements and uses where asbestos-free substitutes exist.

(2) Handle, store, transport, and dispose of asbestos per Federal, State, local, and host-nation requirements.

(3) Establish and execute installation-wide asbestos management plans.

(4) Perform installation-wide surveys to establish and maintain an inventory of all asbestos contained in all DA-controlled structures.

(5) Assess all areas known or suspected to have asbestos for the existence of asbestos and for the potential of exposure of individuals.

(6) Implement a special O&M program designed to minimize exposure of individuals to asbestos until abatement is accomplished for areas known to have asbestos.

(7) Minimize occupational exposures to asbestos to ensure compliance with all applicable Federal, State, local, and host-nation requirements.

(8) Maintain a nonoccupational environment that is safe from asbestos exposure.

10-2. Asbestos management program requirements

The Army will—

a. Establish and maintain a comprehensive and effective asbestos management program per DA guidance.

b. Comply with all applicable Federal, State, local, and host-nation regulations relative to asbestos management.

c. Prohibit the introduction of asbestos into the workplace nonoccupational environment by using substitute materials or instituting engineering controls. Procurement and use of asbestos-free materials is required where such materials exist.

d. Recognize the adverse long-term effects of asbestos on human health, and take all appropriate measures to minimize releases and occupational and incidental exposures to the utmost extent possible.

e. Protect children from asbestos exposure in DA-controlled schools and child development centers by following the requirements specified in AHERA of 1986 and 40 CFR 763.

f. Provide personal protective equipment and clothing (including respirators) to workers per AR 385-10, 29 CFR 1910.1001, 29 CFR 1926.59, and TB MED 502.

g. Program and budget adequate resources to identify, manage, and control exposure to asbestos.

h. Manage and maintain asbestos records per requirements of OSHA, EPA, and DA, and any other applicable Federal, State, local, and host-nation laws and regulations.

i. Ensure that individuals occupationally exposed to asbestos are informed of the exposure and of the hazard associated with that exposure, per 29 CFR 1910.1200, 29 CFR 1910.1001, and 29 CFR 1926.58.

j. Perform surveys to identify the existence, extent, and condition of all asbestos (both friable and nonfriable) in all DA-controlled structures. Ensure that these surveys are kept current.

k. Identify in detail and validate the existence, extent, and condition of all asbestos (both friable and nonfriable) in structures prior to renovation, demolition, or exceeding. Ensure that employees, visitors, and contractors are appropriately notified of any asbestos-related health hazard. Ensure that working condition safe and that all actions are performed per Federal, State, local, and host-nation requirements.

l. Take immediate remedial action where health hazards are identified due to asbestos exposure.

m. Promptly initiate a special O&M program for those structures where asbestos has been identified.

n. Dispose of asbestos waste material only in approved disposal facilities per Federal, State, local, and host-nation requirements. (An approved disposal facility in most cases will be a facility meeting asbestos disposal standards and having written notification by the State that asbestos can be disposed of at the facility.) Off-post disposal is preferred.

o. Dispose of asbestos-containing excess real property per AR 405-90.

p. Use contracting for asbestos abatement in preference to in-house abatement, unless in-house performance is adequately justified and funded and personnel are adequately trained.

q. Conduct worker education/training programs for individuals identified to work with asbestos.

r. Assess the relative health risks associated with alternative control actions. Asbestos should not be removed for the sole purpose of eliminating asbestos.

10-3. Installation asbestos management plan

As a minimum, an installation asbestos management plan will include—

a. A complete review of O&M schedules, design plans, and specifications to identify structures that are scheduled for repair, alteration, or demolition.

b. An installation-wide survey of all structures to determine the location, extent, and condition of all asbestos.

(1) First priority for installation surveys will be to identify the existence of asbestos in aging or deteriorated condition that presents a significant exposure potential in structures occupied or likely to be occupied; in structures to be repaired, altered, or demolished; in DA-controlled schools and child development centers; in hospitals; and in residential housing. These determinations of exposure potential do not have to be supported by independent air sampling for asbestos.

(2) All installation-wide surveys will be completed within 1 year from the effective date of this regulation.

(3) All asbestos survey work will be conducted by accredited personnel meeting the inspector training requirements of AHERA and other applicable Federal, State, local, and host-nation requirements. These personnel will be supervised by a similarly qualified industrial hygienist, or other qualified health and safety or environmental professional, who meets the OSHA definition of competent person, as specified in 29 CFR 1926.58(b).

(4) Annual follow-up inspections will be performed by accredited personnel to identify and report damage and deterioration of asbestos.

c. Documentation of the presence, extent, and condition of asbestos, using the survey and assessment criteria described in TM 5-612.

d. Assessment, for each occurrence of asbestos, of the potential for environmental release and of the associated risk to human health and the environment.

(1) All assessments will be conducted by accredited personnel meeting the management planner training requirements of AHERA and other applicable Federal, State, local, and host-nation requirements.

(2) In OCONUS locations where AHERA-accredited personnel are not available, a waiver from AHERA accreditation may be granted by commanders of MACOMs to personnel demonstrating equivalent qualifications.

e. Preparation, coordination, and immediate implementation of an abatement plan that minimizes the potential for asbestos exposure for each assessed area where potential for asbestos exposure exists. Abatement plans will include provisions for appropriate training of workers, and a discussion of the considered abatement alternatives and the reason the preferred alternative was selected. All abatement plans will be prepared by accredited personnel meeting the AHERA management planner and other training requirements specified in d(1) and (2) above.

f. Preparation, coordination, and execution, for each occurrence of asbestos, of a special O&M plan designed to monitor the

condition of asbestos and minimize environmental release and human exposure. O&M plans will include provisions for appropriate training of workers. All special O&M plans will be prepared by personnel meeting the AHERA management planner and other training requirements specified in d(1) and (2) above.

g. Provision for worker education/training programs for individuals identified to work with asbestos. Individuals will be trained and certified per Federal, State, local, and host-nation requirements, where applicable.

h. An environmental impact analysis of the installation asbestos management plan, as required by AR 200-2.

10-4. Procedures

a. Asbestos is regulated as a hazardous air pollutant under the CAA (40 CFR 61, subpart M). In addition, OSHA, State, local, and host-nation requirements that are applicable to asbestos will be considered when establishing asbestos management plans.

b. Operation of solid and hazardous waste management systems will be conducted per chapter 6.

c. To avoid duplication to the extent practical, asbestos management plans may be incorporated into existing environmental management documents such as the installation hazardous waste management plan discussed in chapter 6. Modification of an existing program is authorized only when doing so will not jeopardize the accomplishment of that program's objectives or the objectives of the Army's asbestos management program.

d. Installation asbestos management plans and asbestos-related actions that entail a potential for generating fugitive asbestos emissions will be environmentally assessed, as required by AR 200-2. Even if there is a FNSI, such a finding must be published throughout the affected geographic area.

e. Programming requests for asbestos-related actions will be clearly identified as such.

f. Specifications for the procurement of materiel will preclude the use of asbestos unless asbestos-free substitute materials do not exist.

g. Design and specifications for new construction will preclude the use of asbestos unless asbestos-free substitute materials do not exist.

h. Contracts for projects involving the removal and disposal of asbestos will use the provisions of Technical Guide Specification CEGS-02080 through 02083.

i. To ensure compliance with subpart M of the CAA, ICs will adopt the procedures outlined in paragraph 12-7a for noncompliance notification procedures.

10-5. Technical assistance

Technical assistance relating to health and environmental aspects of asbestos management can be obtained from the Commander, USAEHA, Aberdeen Proving Ground, MD 21010-5422. Technical assistance relating to O&M can be obtained from the Commander, USAEHSC (CEHSC-FB-S), Ft. Belvoir, VA 22060-5516.

Chapter 11

Army Radon Reduction Program (ARRP)

11-1. Scope

a. This chapter describes policy and procedures for assessing indoor levels of radon and mitigating radon in structures where the levels are elevated. This chapter will provide a summary of the health risks associated with indoor radon, discuss DA indoor radon standards, and outline the DA radon measurement strategy.

b. The objective of the ARRP are to—

(1) Identify structures owned and leased by the Army (CONUS and OCONUS) that have indoor radon levels greater than 4 picocuries per liter (pCi/l) of air.

(2) Modify all Army-owned structures having radon levels greater than 4 pCi/l so that the levels are reduced to 4 pCi/l or less.

(3) Provide detailed guidance concerning radon measurement procedures and risk estimates which have been published in the 1989 USAEHA Technical Guide No. 164.

(4) Issue mitigation strategies and procedures which will be addressed in separate publications furnished by USACE.

11-2. ARRP requirements

a. Overview. DA has adopted a decentralized radon reduction program to identify and to mitigate indoor radon in DA structures.

(1) The installation is responsible for funding, executing, documenting, and managing the radon monitoring and mitigation efforts on that installation based upon the ARRP.

(2) The installation will purchase radon detectors and laboratory analytical services through contracts which are centrally managed by the USAEHSC. This will negate the need for the installation to develop separate, more costly contracts and will aid in ensuring the technical validity of the measurements. The installation will be responsible for proper deployment of the detectors.

(3) All radon measurements will be completed by the 4th quarter of FY91.

b. Requirements.

(1) *Installation requirements.* The installation is responsible for the management and the conduct of the radon measurements for that installation. Specifically, this requires—

(a) Purchase of the radon detectors from the centrally managed contractors.

(b) Deploying and retrieving the radon detectors in accordance with quality assurance (QA) instructions received from the USAEHSC.

(c) Shipping detectors to the QA contractor for preparation of "spikes" (that is blind samples).

(d) Shipping detectors back to the contractors for analysis.

(e) Maintaining the records required to document the results of the radon measurements and providing required summaries to their respective MACOMs.

(f) Notifying occupants of the result of radon monitoring and what actions are necessary.

(g) Establishing an archival database compatible with Army systems for storing all measurement data.

(2) *Contractor requirements.* The centrally managed contractors will provide the installation with the following—

(a) Radon detectors capable of performing the long and short term measurements and pre- and post-mitigation measurements required, with instructions for deployment, emplacement, and retrieval of the detectors.

(b) Data forms required to properly document the measurement and ensure that the detectors are properly handled.

(c) A report that will give the results of the measurement and required QA data to ensure that the measurements are valid and verifiable.

11-3. Indoor radon health risk

A radiation-induced increased risk of contracting lung cancer is the primary health concern with elevated levels of indoor radon-222.

a. Radon-222. Radon-222 is a naturally occurring, inert, radioactive gas that is formed from the radioactive decay of uranium.

(1) Uranium in the soil is the primary source of indoor radon. Elevated radon levels can be found in soils with high concentrations of uranium or those that have been contaminated with the by-products of uranium or phosphate mining.

(2) Soil composition alone is not a good indicator of a potential indoor radon problem. Increased indoor radon levels have been found in areas where uranium concentrations are relatively low.

(3) Radon levels vary considerably in the same geographic area. Adjacent structures can have radon levels that differ by a factor of 20 to 100. This can be caused by differences in construction, insulation, or differences in the soil composition or geology over which the structure was built.

(4) EPA estimates that we may expect 20 percent of our structures to exceed 4 pCi/l.

b. Source of the problem. Indoor radon concentrations have become a health concern largely due to efforts to increase the energy efficiency of our buildings.

(1) Radon-222 has always been a component of indoor air. Recent efforts to increase the energy efficiency of DA structures have resulted in a reduction in the ventilation rates and a corresponding increase in the radon concentration.

(2) The increased radon concentrations have increased the radiation dose to the lung with a corresponding increase in the risk of lung cancer to the occupants.

c. Source of the health hazard. The health hazard is caused not by the radon-222 but by the daughter products formed by the decay of radon-222.

(1) Radon-222 is an inert gas, and the majority of the radon that is inhaled is also exhaled. Because of this rapid exchange, radon-222 itself does not deliver a significant fraction of the dose to the lung.

(2) The radiation received by the lung is from the decay of the radon-222 daughter products. Radon-222 has a half-life of 3.8 days and decays into radioactive daughter products which can attach themselves to dust particles in the air. When these dust particles are inhaled, they are trapped in the lungs and begin to irradiate lung tissue.

(3) The increased risk of lung cancer is caused by the radiation dose delivered by the radon-222 daughter products trapped in the lung and is proportional to the radon concentration and the length of exposure.

d. Indoor radon standards. DA has adopted EPA's recommended remedial action level as its indoor radon standard.

(1) Remedial action will be taken if the annual average radon concentration in a structure exceeds 4 pCi/l of air.

(2) The time frame in which mitigation must be accomplished is dependent upon the measured radon concentration and is presented in table 11-1.

(3) EPA estimates that lung cancer death due to radon exposure could occur in 1 to 5 percent of a population exposed to an annual average radon concentration of 4 pCi/l for 70 years.

(4) Research is continuing to refine this risk estimate.

Table 11-1
Mitigation time frames

Radon concentration (pCi/l)	Mitigation required within
Greater than 200 ¹	1 month or move the occupants
200-20 ²	6 months
20-8 ²	1-4 years ³
8-4 ²	5 years
4 or less	No action required

¹ Determined by 90-day screen or a 1-year measurement in the case of Priority 2 and 3 structures.

² Annual average determined by 1-year measurement. Screening measurements in this range will not be used as the basis for initiating mitigation actions.

³ Depending on the level of the measurement.

11-4. Measurement plan

a. Objective. The objective of the assessment phase of the ARRP is to identify all Army structures that have radon levels above EPA's recommended action level of 4 pCi/l with emphasis on finding and mitigating, early in the program, those priority 1 structures (that is, residences, child care centers, schools, and hospitals) with levels greater than 20 pCi/l.

b. Priorities. Installation structures have been prioritized to ensure the objective can be cost-effectively obtained and to provide a guide for optimizing mitigation efforts. Priorities for radon assessment are—

(1) Priority 1: Day care centers, hospitals, schools, and living areas (that is, quarters, unaccompanied personnel housing billets).

(2) Priority 2: Areas having 24-hour operations, such as operations centers and training and RDTE facilities.

(3) Priority 3: All other routinely occupied structures.

c. *Phasing.* Radon will be measured using assessment plan phasing which consists of the following—

(1) *Initial phase.* The objectives of the initial phase of the measurement plan are to—

(a) Rapidly identify the indoor radon levels in those structures that pose the highest risk to our Army personnel and their families.

(b) Determine whether priority 2 and 3 structures must be measured on the installation.

(c) Provide an early indication of those installations that will require increased resources for mitigation so that funds can be reallocated.

(2) *Long term measurement (LTM)/mitigation phase.* The objectives of the LTM/mitigation phase are to—

(a) Assess annual average radon levels under realistic (as opposed to worst-case) exposure conditions before embarking on mitigation of structures where the health risk appears to be relatively small.

(b) Perform mitigation of structures as warranted by the measured radon levels.

(c) Ascertain whether mitigation efforts have been successful. The decision process employed during the initial (screening) phase and the LTM/mitigation phase is summarized in a schematic flow chart in figure 11-1.

(3) *Post-mitigation phase.* The objective of post-mitigation measurements is to verify and document the effectiveness of the mitigation measures taken.

11-5. Measurement methodology

a. Initial phase measurement methodology.

(1) Radon measurements in this phase will be performed under worst-case conditions so that a rapid, conservative assessment of priority 1 structures can be obtained. The installation will accomplish this by—

(a) Placing the radon detector(s) in the lowest living area (LLA) of the structures measured because radon concentrations are the most elevated in the lowest areas of a structure. The LLA is defined as follows—

1. For structures without subsurface areas, the LLA is the ground floor.

2. For structures with subsurface areas, the LLA is defined as the lowest area in that structure that has a finished, hard surface floor (for example, concrete or tiled) that is or could be used. A dirt breezeway is not an LLA, but an unfinished basement with a concrete floor is, regardless of what the current occupants are using the area for.

(b) Performing the radon measurement during the time of the year when these structures will most likely be closed up. In the colder climates, the detectors will be emplaced during the heating season, and in the warmer climates, during the cooling season.

(2) The radon detector(s) will be in place for 90 days. The worst-case conditions described above will ensure that the actual annual average radon concentration will be below the value measured.

b. LTM methodology.

(1) *Determination of average annual radon concentration.* For LTM, alpha track-type radon detectors will be employed for a 1 year period under normal living conditions so that an annual radon concentration can be obtained in the structures measured.

(2) *Applicability of LTM to priority 2 and 3 structures.* The results of the initial (screening) phase will be used to determine whether priority 2 and 3 structures must be measured. This determination should be based upon the following:

(a) If any of the priority 1 structures had radon concentrations greater than 4 pCi/l, LTM of all priority 2 and 3 structures must be performed.

(b) If none of the priority 1 structures had radon concentrations greater than 4 pCi/l, priority 2 and 3 structures do not need to be measured, provided there is reason to believe that priority 2 and 3 structures do not have significantly higher levels of radon than the priority 1 structures. If there is reason to believe that

some priority 2 and 3 structures have levels greater than 4 pCi/l, then those structures should be measured.

(3) *Applicability of LTM to priority 1 structures.* Recent data indicate that radon levels measured under the conditions required for priority 1 structures will be approximately two to four times higher than the actual annual average concentration in that structure. Based upon this, the following actions will be taken—

(a) Priority 1 structures with radon levels greater than 4 pCi/l but less than 20 pCi/l require LTM to determine the actual annual radon concentration in the structure before mitigation efforts are initiated. This is done as a cost-saving measure to prevent the unnecessary mitigation of structures. Mitigation, if required, can be accomplished within the time frames prescribed in table 11-1 above if the levels are still greater than 4 pCi/l.

(b) All priority 1 structures with levels greater than 20 pCi/l will be mitigated on the basis of the 90-day screening in order to comply with the mitigation time frames specified in the Army radon policy.

(c) All priority 1 structures with levels of 4 pCi/l or less require no further action.

c. *Post-mitigation measurement methodology.* The measurement methodology used for post-mitigation measurements will depend upon the level of radon found in the structure.

(1) For structures with 20 pCi/l or greater, use rapid post-mitigation monitoring coupled with longer term verification measurements. Specifically—

(a) Use charcoal canister-type detectors that can provide results within days, and make the measurements under closed-house worst-case conditions to obtain initial verification of the mitigation.

(b) Once the levels are below the established standards using the rapid monitoring techniques, verify the efficacy of the mitigation using long term (1 year) measurements with alpha-track detectors.

(c) For structures with levels greater than 200 pCi/l before mitigation, the occupants may be returned to their quarters based upon the result of the quick check.

(2) For structures with levels less than 20 pCi/l but greater or equal to 8 pCi/l use the following post-mitigation measurement methodology—

(a) Detectors may be employed that can provide results within 90 days or sooner for worst-case closed-house conditions.

(b) Once the levels are below the established standards using this monitoring technique, the efficacy of the mitigation will be verified using the long-term (1-year) measurements.

(3) Structures with levels less than 8 but greater than 4 pCi/l may utilize detectors that will provide results within 180 days. A 90-day to 180-day measurement under worst-case conditions may be utilized for verification.

11-6. Specific guidance

a. *Emplacement.* Specific emplacement instructions will be provided by the contractor, but the following general guidance is provided for planning purposes.

(1) *Single family structures.* For the screening phase, one detector will be placed in the LLA of the structure. If LTM is required, one will be placed in the LLA and, if the LLA is a basement, one will also be placed on the first floor.

(2) *Multiple family structure.* Guidance for multiple family structures is essentially the same as for single family structures. If the LLA is a common, open area (that is, an open, unpartitioned basement area), measurements can be made using one detector for every 2,000 square feet of area in the LLA and one detector per apartment on the floor above the basement.

(3) *Office buildings and warehouses.* Sampling methodologies for these structures are currently being developed and will be provided as soon as they are available. For planning purpose, EPA currently recommends placing one detector for every 2,000 square feet in the LLA for this type of structure.

b. *Detector retrieval and documentation.* The installation is responsible for retrieving the detectors, maintaining the documentation required to manage the program, and verifying the levels in the structures.

c. **Planning guidance.** The following additional information is provided to assist in the planning process:

(1) A coordinated effort will be made with participation by the DEH, PAO, safety office, radiation protection officer, installation DHS, family housing office, and ICs.

(2) Each alpha-track detector will cost about \$12, and each charcoal canister about \$7 (analysis is included in these price estimates).

(3) Each family housing unit will require one detector in its LLA for screening phase measurements. Using national average data, 20 percent of the measured structures can be expected to fall within the 4 to 20 pCi/l range and require two detectors for LTM.

(4) Hospitals, day care facilities, and schools will require one detector per 2,000 square feet on each level tested for both the screening and LTM.

(5) Priority 2 and 3 structures will also require one detector per 2,000 square feet on each level tested for the screening and LTM measurements.

(6) Further refinement of these estimates will be provided as the data become available.

d. **Database management.**

(1) Installations will maintain or have access to a database that will permanently capture all the information derived from the assessment and mitigation of radon.

(2) At the end of each FY, each installation will submit an annual report to its respective MACOM on its progress in implementing the ARRP. For ARNG, each State will submit an annual progress report to NGB.

11-7. Technical assistance

Technical assistance relating to the measurement of radon in buildings can be obtained from Commander, USAEHA, Aberdeen Proving Ground, MD 21010-5422, or from Commander, USAEHSC, ATTN: CEHSC-FU-S, Fort Belvoir, VA 22060-5516. Technical assistance relating to mitigation of elevated levels of radon in buildings can be obtained from USAEHSC ATTN: CEHSC-FB-S, Fort Belvoir, VA 22060-5516.

SCHEMATIC FLOW CHART OF THE ACTIONS REQUIRED BY THE ARMY RADON REDUCTION PROGRAM

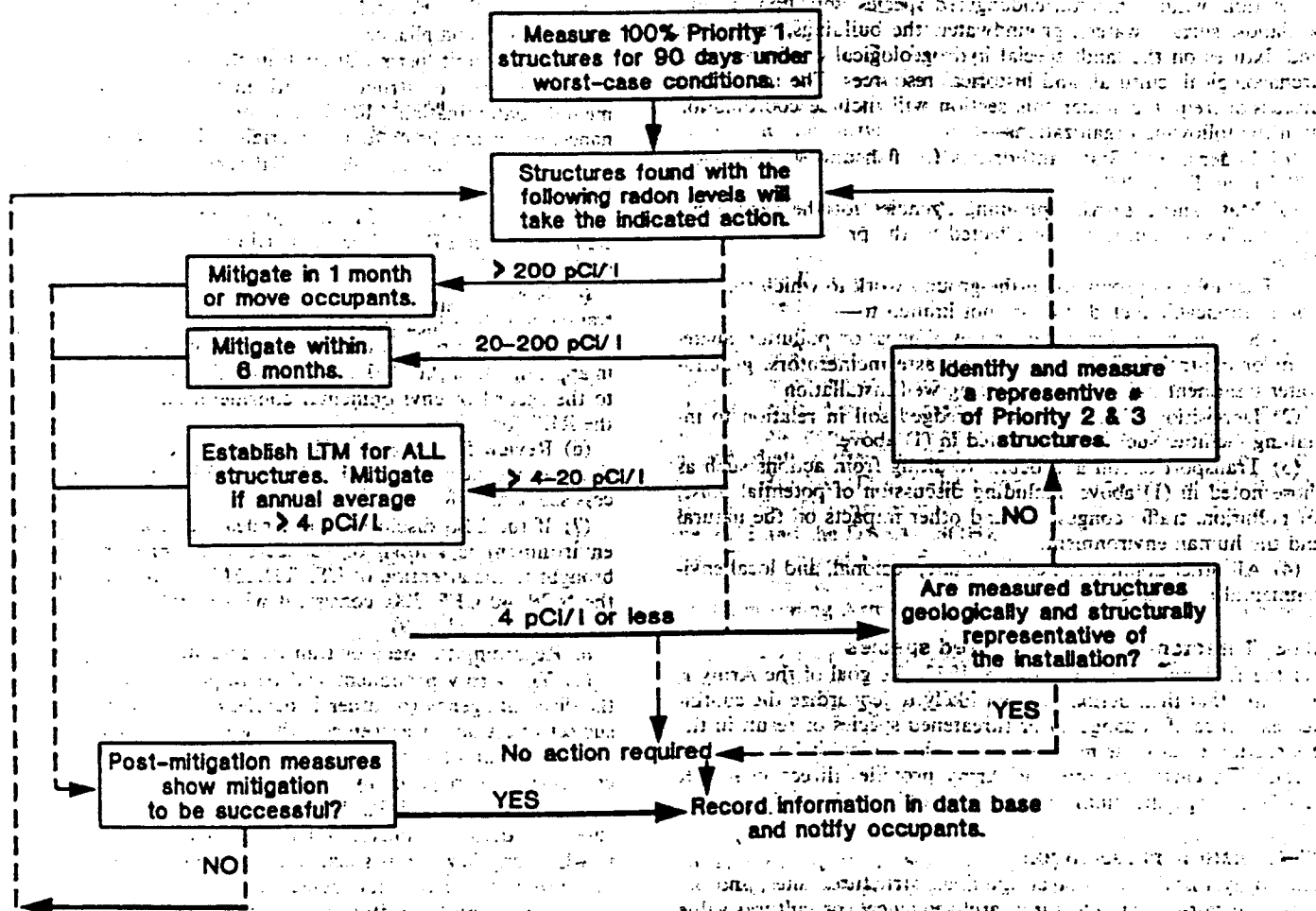


Figure 11-1. Army radon reduction program actions flow chart

Chapter 12 Other Environmental Programs

12-1. Scope

This chapter describes additional environmental programs that should be considered concurrently with the other chapters of this

regulation. Each paragraph, 12-2 through 12-14, describes a different program and lists the applicable responsibilities, policies, and procedures associated with the program.

12-2. On-the-ground work

The selection of a method to effect on-the-ground work intended to carry out the requirements of this regulation will be contingent

upon the findings that emerge from the review of alternative methods, as specified for compliance with NEPA. (See AR 200-2 and EO 11514, Sec. 2(b), Findings of No Significant Impact, "FNSI". For assistance, see Technical Reports N-92 and N-130, USACERL, USACE.)

a. Exceptions will be made for emergency work in response to imminent endangerment or actions expected to cause minimal surface disturbance. Casual field inventories, which are categorically excluded under AR 200-2 (app A, cat 18), are included among those activities that are expected to cause minimal surface disturbance. Such activities include field reconnaissance where vehicles are restricted to established roads and trails, approved aerial overflights, sampling from existing wells or surface water sources, and the use of monitoring devices, instruments, or drilling equipment which do not involve the use of tracked vehicles or earthmoving equipment and where vehicles are restricted to existing roads and trails.

b. The NEPA review of alternative methods will discuss—

(1) Relevant portions of existing environmental documentation, including the installation-wide EIS, environmental audit (para 12-5), IRP reports (chap 9), and any other reports and plans concerning the environmental condition of the installation.

(2) The potential environmental, social, and economic effects, including life-cycle costs, of each alternative method in relation to vegetation, wildlife habitat, endangered species, soil, flood plains, wetlands, surface waters, groundwater, the buildings, structures, and fixtures on the land, special hydrogeological conditions, and archaeological, cultural, and historical resources. The review and discussion required under this section will include coordination with the following organizations—

(a) Federal and State authorities for fish and wildlife (AR 420-74 and EO 11990).

(b) State and area-wide planning agencies for the geographic area if a flood plain would be affected by the proposed work (EO 11988).

c. Examples of proposed on-the-ground work to which this section is applicable include but are not limited to—

(1) Site clearance for water or sewer lines, or pollution abatement or control facilities, including waste incinerators, groundwater treatment units, and monitoring well installation.

(2) Deposition of excavated or dredged soil in relation to installing facilities such as those noted in (1) above.

(3) Transport of soil and debris resulting from actions such as those noted in (1) above, including discussion of potential noise, air pollution, traffic congestion, and other impacts on the natural and the human environment.

(4) All other applicable Federal, State, regional, and local environmental requirements.

12-3. Threatened and endangered species

Per the Endangered Species Act of 1973, the goal of the Army is to ensure that their actions are not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of the critical habitat of such species. To carry this out, the Army provides direction in AR 420-74 and specifies implementation in TM 5-633, per EO 11990.

12-4. Historic preservation

The Army's goal is to protect buildings, structures, sites, and objects of historical, architectural, archaeological, or cultural value located on Army-controlled property per the National Historic Preservation Act of 1966 and related laws. The Army's policy and regulatory guidance on historic preservation are provided in AR 420-40, TM 5-801-1, and TM 5-801-2.

12-5. Real property transactions

a. The Army proponent for any real property transaction outside the Army within the United States, its territories and possessions will comply with the Army policy set forth in this paragraph, in addition to the procedures found in AR 405-10, AR 405-80, and AR 405-90.

b. EBS is an inventory and a comprehensive evaluation of the existing environmental conditions, and will be conducted on real property prior to a transaction, per the EBS protocol (see app B). For definitions of terms used in this paragraph, see paragraph B-3.

c. To comply with NEPA and AR 200-2, the Army proponent will ensure that an EBS is performed for all real property transfers and other transactions. The purposes of an EBS are to describe the environmental setting; define the nature, magnitude, and extent of any environmental contamination; and develop sufficient information to assess adequately the health and ecological risks associated with the proposed real property transaction. Once these risks are known and presented to the decisionmaker, the Army proponent can choose to proceed or discontinue the transaction.

(1) Scoping, development, and adequacy of an EBS is the responsibility of the Army proponent, who will ensure that the EBS is conducted per the EBS protocol.

(2) Items to be considered for assessment in the EBS include, but are not limited to—

(a) Areas of cultural, historical, or archaeological significance.

(b) Threatened or endangered species.

(c) Environmentally sensitive areas such as wildlife habitats, sole-source aquifers, surface water supplies, wetlands, or flood plains.

(d) DOD, DA, Federal, regional, State, and local environmental regulatory compliance.

(e) Any permit, permit discontinuance or closure requirements.

(f) Properties or structures with known or potential environmental contamination (that is, asbestos, radon, unexploded ordnance, or hazardous or toxic materials/substances/wastes).

(g) Existing land use plans, IRP reports, and other environmental documentation.

(3) Where an EA or EIS is required prior to the real property transaction, the EBS will be the portion of the EA or EIS that describes the *affected environment* as described in AR 200-2.

(4) Non-Army parties will be requested to perform the EBS for transactions that they have initiated.

(5) When the proposed transaction qualifies for a CX, as listed in appendix A of AR 200-2, a separate EBS will be prepared prior to the record of environmental consideration and included with the REC for review.

(6) Review for adequacy will be conducted by the Army office that reviews the associated REC, EA, or EIS. (For the review process see para B-8).

(7) If the EBS discloses that a release of contaminants to the environment is known or suspected, the property should be brought to the attention of USATHAMA for consideration under the NCP, 40 CFR 300, consistent with DOD and Army funding IRP priorities (chap 9).

d. Regarding the deed or transfer agreement—

(1) The Army proponent will be responsible for providing to the disposal agency (or other Federal agency, if the transaction is subject to a transfer agreement) the notice provisions for the contract of sale and the covenants to be incorporated into the deed of conveyance, as required by—

(a) CERCLA, 42 USC 9620(h)(1) and (3), on specified disclosures in a deed to property transferred by a Federal agency on or in which any hazardous substance was stored for 1 year or more, or known to have been released or disposed of (see para 9-4b(1)(n)) and similar State disclosure requirements, if applicable.

(b) RCRA, 42 USC 6901, 40 CFR 264.119(b)(1), on notation to a deed to property where there is a closure of a solid waste management unit; and similar State disclosure requirements, if applicable.

(c) RCRA, 42 USC 6901, 40 CFR 270.30(L)(3), on procedures for discontinuance of RCRA permits, and all other applicable Federal, State, regional, and local environmental requirements concerning the discontinuance of environmental permits.

(d) EO 11988 (Floodplain Management), section 3(d) and EO 11990 (Protection of Wetlands), section 4. All regulatory or other

appropriate use restrictions will be referenced, or such properties will be withheld from conveyance.

(2) The Army, if it controls the subject property, will take these additional steps—

(a) Place restrictions on the future use of the property, in perpetuity, if necessary, to protect human health and the environment, if compliance with (1) above required the removal or in-place treatment of hazardous substance contamination. In the alternative, the Army may retain possession of that portion of the property for which restrictions are not practical, or for which severe restrictions would be necessary, or for which cleanup would not be economical compared to the value of the property after decontamination.

(b) Specifically identify in the deed or transfer agreement any easements or other rights-of-way that must be retained, if continuing operations and maintenance of treatment facilities, periodic groundwater monitoring, or other activities related to compliance with (1) above would necessitate the provision of such access.

(c) Place the same requirements on the recipient of the property as in (4) below, if the deed or transfer agreement contains a reverter clause and/or reservation of the Army's right to re-enter or reclaim the property.

e. For real property transactions initiated by non-Army parties—

(1) The Army proponent will assure completion of an EBS and should participate actively when a non-Army party performs an EBS. The Army participants will ensure that the EBS is conducted per the EBS protocol.

(2) In the following cases, the Army will prepare the EBS, even though the other party initiated the transaction—

(a) The non-Army party is an applicant to the Army's agricultural and grazing (A&G) leasing program.

(b) The non-Army party, due to financial constraints, is either unwilling or unable to conduct an EBS and the Army proponent determines that the transaction would be in the best interests of the Army. If the Army proponent can provide the funds, the EBS may proceed; otherwise, a request for an exception must be submitted per f below. The ASA(IL&E) can provide the funding and direct the Army proponent to perform the EBS.

(3) The Army proponent that prepares an EBS for a real property transaction initiated by a non-Army party may request technical assistance from the Army components listed in paragraph B-5a.

(4) Outgrants, for example, leases, licenses, easements, and land use permits, will include the requirement that the grantee will conduct an EBS before returning the property to the Army, unless covered by para (2) (a) or (b) above, in which case the Army will conduct the EBS. If the grantee will be using buildings, land, or easements for any type of operation that will result in any form of contamination, the grantee will be required to post a bond. This bond must provide for all projected costs associated with the cleanup of any resultant contamination released during the grantee's use. The amount of the bond will be commensurate with the grantee's proposed use of the property and will be determined after consultation with USATHAMA or USAEHA.

f. Exceptions to this paragraph may be granted by the ASA(IL&E). A request for exception will be forwarded in writing, together with the estimated cost of performing the EBS, and the suggested source of funding for payment of those costs, through command channels to HQDA, (ENVR-E) WASH DC 20310-2600, for coordination, review, and comment, through the DASA(ESOH) to the ASA (IL&E).

12-6. Environmental agreements

a. When an Army entity ("the Army") begins negotiations on an environmental agreement per a Federal or State environmental statute, the procedures stated in this chapter will be followed.

b. Environmental agreements, for the purposes of this paragraph, include but are not limited to: consent orders, consent agreements, compliance agreements, memorandums of agreement, memorandums of understanding, IAGs, Federal facility agreements, and FFCAs. (For specific directions concerning FFCAs,

see para 6-3.) State or Federal permits issued under RCRA and other environmental statutes are not considered agreements for the purposes of this regulation.

c. Draft agreements to which this chapter applies will contain—

(1) Procedures for schedule modification and dispute resolution.

(2) Provisions, as limited by DOD and Army policy, for reimbursement to State governments for oversight expenditures in relation to the Army activities that are subject to an environmental agreement.

(a) Contractual arrangements may be made for a State to provide technical assistance specific to a project that is subject to an environmental agreement.

(b) Full and open competition is not required for the award of a contract for the purpose of establishing or maintaining an essential engineering, research, or development capability that could be provided by an educational or other nonprofit institution or a federally-funded research and development center (48 CFR 6.3).

(3) Language prescribed by DA, in the case of Federal facility and interagency agreements relating to CERCLA, 42 USC 9620, and prepared for installations included on or proposed for inclusion on the NPL under CERCLA.

d. Draft agreements under this chapter will be forwarded through the command structure to HQDA (DAJA-EL) WASH DC 20310-2210, for review and coordination with HQDA (ENVR-E) WASH DC 20310-2600. When so forwarded, such an agreement must be accompanied by—

(1) A brief description of the problem(s), the proposed action(s), and the parties to the agreement.

(2) A map delineating the location of each site addressed in the agreement.

(3) A funding plan that would ensure that the compliance schedule could be met.

e. Public review and comment will be provided per the requirements, if applicable, of NEPA, CERCLA, or other relevant Federal or State laws.

f. Negotiations should be expedited for all agreements to which this chapter applies. This is particularly important for installation included or proposed for inclusion on the NPL under CERCLA, 42 USC 9620. Any disagreement among the parties that has resulted in postponing negotiations for 45 days will be reported on or immediately after the 45th day, through the command structure to HQDA (DAJA-EL) for coordination with HQDA (ENVR-E). The matter will then be brought to the attention of the ACE and the DASA(ESOH).

g. The approval authority follows:

(1) In the IRP, the IC has approval authority for any agreement concerning Army-controlled property to which this chapter applies. In addition—

(a) For CERCLA agreements concerning all installations included or proposed for inclusion on the NPL, concurrence of DASD(E) is required. DASA(ESOH) will be a co-signatory, with the IC.

(b) Any proposed agreement addressing an environmental issue of Army-wide significance or of a unique or controversial nature, as determined by DASA(ESOH), will be forwarded through the command structure to HQDA (DAJA-EL) for review and coordination with HQDA (ENVR-E). DASA(ESOH) will be apprised of all such agreements and may then decide to be a signatory.

(2) For CERCLA agreements concerning FUDS (para 9-5), the concurrence of the ACE and DASA(ESOH) is required, and DASD(E) will be the signatory.

12-7. Environmental compliance

a. Immediately, by telephone, the commander of an installation, activity, or unit who receives any notice of noncompliance, NOV, or is or will be unable to comply with any applicable Federal, State, regional, or local environmental law or regulation will report to their MACOM. MACOMs will report within 48 hours to USATHAMA (CETHA-EC-S) table 8-1, the receipt of any NOV, consent or compliance order or FFCA. Reports of spills of

hazardous substances and petroleum products will also be reported to USATHAMA (para 8-3). USATHAMA acts as a technical support agency to AEO in collecting, analyzing, and reviewing Army data on NOV's and spills. If a spill is considered to be of such nature to warrant immediate attention by HQDA, the report will be made to AOC (24-hour operation). Quantities and conditions requiring a report for spills remain unchanged. These notifications can be made by overnight mail, facsimile (FAX) telephone: 301-671-3132, PAXMAIL, or telephone call (table 1-1). FAX submissions are preferred. The following information must be provided—

- (1) Name of installation.
- (2) MACOM/installation POC's and phone number.
- (3) Date of NOV/consent/compliance order/FFCA/spill.
- (4) A short summary of the number and the nature of the violations and/or spill.
- (5) The name of the regulatory agency issuing the document (EPA, State, or local).

b. Within 5 working days, the installations will forward to Commander, USATHAMA, ATTN: CETHA-EC-S, Aberdeen Proving Ground, MD 21010-5401, receipt of the NOV, consent/compliance order, FFCA or spill report for implementation into the Army's NOV tracking system.

c. The IC will also provide, within 14 calendar days, a written notice through command channels that an NOV has been received. The written notification will contain the following—

- (1) The name of the installation, and the name of any tenant if the latter is also cited.
- (2) If one has been issued, a copy of the notice of noncompliance, enforcement order or draft FFCA.

d. Within 45 days of receipt of the NOV, consent/compliance order, FFCA or spill, installations will forward, through command channels, a plan of corrective action, including compliance milestones, cost estimates, and the 1383 report project numbers. The response action should be listed in the A-106 report either as a completed action or, if further work is required, as a class I requirement (para 12-11). (For specific directions concerning RCRA noncompliance see para 6-3).

e. Other matters that will be reported per this paragraph are—

(1) Environmental crises: Report indications of an environmental crisis to the Army operations center and USATHAMA. As soon as any such indicator is discovered, it must be monitored and reported on a continuing basis to USATHAMA. Environmental crisis indicators include but are not limited to—

- (a) Illegal dumping of hazardous materials, substances, or wastes by non-Army parties onto Army property.
- (b) Unexplained human illness or the injury or death of wildlife, domestic animals, aquatic life, or vegetation, when occurring to such an extent as to suggest more than a random event.

(2) Spills of oil and hazardous substances. (See para 8-5 for specific instructions.)

f. To remedy environmental problems, Federal personnel, whether military or civilian, will—

(1) Identify funding requirements, together with deadlines for implementation, with regard to pollution abatement measures, natural and cultural resource protection activities, technical and SOH training, periodic health monitoring of personnel working on environmental projects, and other related activities.

(2) Take steps to implement solutions, beginning with written requests and reports to higher headquarters.

(3) Provide written notice to HQDA (DAJA-EL) WASH DC 20310-2210; and HQDA (ENVR-E) WASH DC 20310-2600; and USATHAMA, ATTN: CETHA-EC-S, within 14 calendar days after the installation has achieved compliance, as determined by the State or EPA.

g. All military and civilian personnel must ensure that the activities for which they are responsible are conducted per all Federal and applicable State environmental laws. Commanders, supervisors, managers, and operators are also responsible for ensuring the compliance of their tenant activities and GOCO contractors, and for informing personnel at all levels that neither

operational necessity nor budgeting deficiencies will excuse non-compliance. Matters of particular concern are as follows—

(1) Federal employees are not immune from Federal prosecution for violations of Federal law. Penalties, which may vary, include fines and incarceration. The following are Federal criminal acts under the listed statutes—

(a) CERCLA, 42 USC 9603 (b), (c), and (d)(2). Failure to notify the NRC of a release of a hazardous substance; knowingly reporting false or misleading information; or the knowing destruction of, or falsification of, specified records.

(b) RCRA, 42 USC 6928 (d) and (e). Knowingly doing the following: transporting or causing to be transported hazardous waste to an unpermitted facility; dealing with hazardous waste without a permit or in violation of a permit, regulation, or standard; omitting material information or making a false material statement or representation in specified documents; destroying, altering, concealing, or failing to file any compliance document; transporting (or causing to be transported) without a manifest any hazardous waste required to be accompanied by a manifest; exporting hazardous waste without the consent of a receiving country or in a manner not in conformance with an international agreement; dealing with used oil not identified or listed as a hazardous waste under RCRA in violation of specified provision, while knowing at the time that dealing in such a way places another person under imminent danger of death or serious bodily injury.

(c) CWA, 33 USC 1319(c). Negligently violating specified permit conditions/limitations or negligently introducing a pollutant or hazardous substance into a sewer system or POTW while knowing that such a substance could cause either personal injury or property damage or cause the POTW to violate effluent limitations or conditions; knowingly making false statements, representations, or certifications in specified documents, or falsifying, tampering with, or rendering inaccurate certain monitoring devices or methods.

(2) The element of knowledge in these statutes can be established by direct evidence, such as where an individual was specifically told of the fact in issue, or by circumstantial evidence indicating that the commander was aware of deficiencies and failed to take action. Furthermore, in some instances, evidence that an individual shielded himself or herself from information that he or she should have known is admissible to prove that he or she was in possession of actual knowledge.

(3) The CWA, CAA, and RCRA all contain sovereign immunity waivers that can be read to suggest that fines can be assessed against Army installations for noncompliance with permit provisions. Future legislative changes of judicial interpretations may clarify the matter of immunity. However, concerning those statutes as now written, the Army will not pay administrative fines or penalties for violations of permit provisions under the CWA, CAA, or RCRA.

(4) The Army cannot pay State administrative fines, but may be liable for sanctions imposed by a court against either an Army entity or a contractor at GOCO facilities. The Army cannot reimburse the contractor for fines that the contractor incurs due to its operation of the facility.

(5) All personnel will ensure that all instances of noncompliance with environmental laws and permits are identified and corrected immediately, beginning with written requests and reports through the chain of command. Where correction is dependent on major construction, budget submission, or other long-range programming and execution requirements, personnel will identify funding requirements, along with deadlines for implementation, for—

- (a) Pollution abatement measures.
- (b) Natural and cultural resource protection activities.
- (c) SOH training and periodic health monitoring of personnel working on environmental projects.
- (d) Other related activities.
- (6) Cessation of the activity or negotiation of an exemption with the State or Federal authority is required to avoid continued violation of applicable criminal statutes. In circumstances where national security interests mandate continued operation without

correction, an exemption on such grounds must be sought through command channels. The President is the sole authority to grant such an exemption. Funding delays will not be a basis for requesting an exemption, unless Congress has been asked to appropriate funds for this purpose and has not done so.

(7) For environmental agreements with State or Federal authorities, see paragraph 12-6.

12-8. Environmental auditing

a. DA will use environmental auditing as a means of achieving, maintaining, and monitoring compliance with applicable Federal, State, regional, and local environmental regulations. Auditing will also be used as a vehicle for attaining Army environmental program goals and improving program visibility.

b. Primary requirements of the Army environmental auditing program are—

(1) Each installation will authorize an external audit no less frequently than once every 4 years. An external audit is conducted by personnel other than those of the installation being audited. External audits can be accomplished either by contract or in-house, by engaging the assistance of USAEHA, USATHAMA, MACOM personnel, or personnel from another installation.

(2) Installations will develop a management plan to correct the deficiencies identified in the external audit. The plan will address the construction projects, funding, technical and safety training and health monitoring for environmental personnel, permits, surveys, and other activities that are necessary for attaining compliance with applicable Federal, State, regional, and local environmental laws and regulations. Plans will be updated annually and all requirements identified by the latest audit will be included in the A-106 report (para 12-11).

(3) At the midpoint of the audit cycle (2 years) each installation will conduct an internal self-audit, that is, an audit conducted by personnel of the installation being audited. Corrective actions for discrepancies identified in the internal self-audit will be incorporated into the management plan.

(4) Audits will be conducted per the standard Army audit protocol (environmental review for management action) developed by USACERL. Recommended changes to this protocol are to be forwarded in writing to HQDA, ENVR-E for inclusion.

c. OCONUS commanders will determine the scope for audits within their commands and will implement audit procedures to ensure compliance with applicable host nation and SOFA requirements.

12-9. Mobilization

During mobilization, all requirements of this regulation will remain in effect, unless waived by higher command.

12-10. Supplements

a. OCONUS MACOMs

(1) These commands will supplement this regulation within 180 days of the effective date.

(2) At a minimum, the supplement will address command-unique environmental requirements of SOFAs and host countries.

(3) One copy of the supplement will be forwarded to HQDA (DAJA-EL) WASH DC 20310-2210 for review and coordination with HQDA (ENVR-E) WASH DC 20310-2600.

b. Other MACOMs and agencies

(1) Local limited supplementation of this regulation is permitted, but is not required.

(2) HQDA agencies and MACOMs will forward one copy of each supplement to HQDA (DAJA-EL) for review and coordination with HQDA (ENVR-E).

12-11. Reports (RCSs DD-P&L(A)-1485,

DD-P&L(SA)-1383)

a. Defense Environmental Status Report (DESR) (RCS DD-P&L(A)-1485)

(1) AEO will prepare annually the DA portion of the DESR, with technical assistance from USATHAMA and USAEHSC (CEHSC-FN). The DA portion will include information on the

programs and activities of the MACOMs, the USAR, and the ARNG.

(2) MACOMs and NGB-Army Directorate will submit timely annual reports to HQDA (ENVR-E), covering programs and activities during the reporting period.

(3) State adjutants general will submit annual reports to NGB covering programs and activities during the reporting period. Such reports will be forwarded by the NGB to HQDA (ENVR-E) in a timely fashion.

(4) The format and content of the report and the deadline for its submission will be as determined by DOD and forwarded through command channels to installations, activities, and units.

b. *Environmental Pollution Prevention, Control, and Abatement at DOD Facilities Report (RCS DD-P&L(SA) 1383), OMB Circular A-106*

(1) This report ("A-106 report") is a semiannual submission; the first part represents an agency's plans, and the second is the agency's revision of those plans, based on EPA's evaluation of the first submission. The procedure is as follows—

(a) EO 12088, section 1-401, directs the heads of Federal agencies to present annually to the Director of the Office of Management and Budget a plan for funding pollution abatement and control projects so that those agencies' facilities will meet environmental standards. The plan is submitted first to EPA for review and evaluation, per procedures established pursuant to OMB Circular A-106.

(b) EPA then identifies for the OMB those projects listed in the agency plans that should receive priority consideration for inclusion in the President's annual budget.

(c) OMB uses the EPA report as a guide for reviewing the Federal agencies' next FY budget. Therefore, agencies whose projects are included in the report should compare the EPA evaluations with their own priorities. Any disagreement with an evaluation should be brought to the attention of EPA and the differences resolved. The decision concerning the priority of a project rests with the Federal agency and OMB.

(d) The Army follows the guidance contained in OMB Circular No. A-11 (June 1988 revision), on the preparation and submission of the annual budget by all Federal agencies. The Army will use the A-106 report for planning programming, and establishing budget requirements for the Army's environmental programs. This should likewise be used by the MACOM to develop the command operating budget (COB) and the POM. The report should identify all pollution control projects and programs needed to achieve and maintain compliance, as well as to demonstrate environmental leadership, and their associated funding requirements for the next 5 FYs.

(2) Reporting responsibilities of Army entities are as follows—

(a) The ACE, through AEO (ENVR-E), is the Army's proponent for the A-106 report. The ACE's functions include policy guidance, Army Staff coordination, and submittal of the final report to EPA. The ACE also coordinates with the Director of the Army Budget and The Director of the Program Analysis and Evaluation Directorate, to ensure that environmental requirements are properly considered in Army program and budget documents.

(b) USATHAMA supports AEO in preparing the Army's A-106 report for submission. To accomplish this, USATHAMA, in coordination with AEO (ENVR-E), sends detailed technical guidance to the MACOMs, consistent with EPA's requirements, for the collection, collation, and processing of information required for the report. After reviewing the EPA evaluation of the Army submission, USATHAMA transmits that evaluation to the MACOMs, together with guidance for resolving any discrepancies between the Army submission and the EPA evaluation. USATHAMA from time to time may deliver automated working copy tapes of the Army's A-106 report to EPA.

(c) MACOMs will submit the report, per the technical guidance provided by USATHAMA, through command channels. Commander, USATHAMA (CETHA-RM), Aberdeen Proving Ground, MD 21010-5401. This information will be submitted by

15 May and 15 November of each year, or as otherwise prescribed.

1. CONUS MACOMs will provide the requested information for the installations and activities, including USAR installations, which they control or support. For hazardous waste minimization projects, MACOMs will submit documentation per the requirements stated in this paragraph, as well as in paragraph 6-6c(2)(b). In addition, the CG, U.S. Army Materiel Command (AMC) will include requirements for retrofit and other programs and projects that are needed to bring mobile sources into compliance with air, water, and noise standards. Vehicles, aircraft, and watercraft are to be included.

2. OCONUS MACOMs will submit modified reports to identify those environmental programs and projects, and the resources needed to support them, that require U.S. funding according to current policy.

3. The CNGB will provide the requested information for all of its installations and activities, addressing the requirements for those environmental programs and projects, and the resources to support them, that would be supported by federally appropriated funds.

(d) ICs are responsible for ensuring that their A-106 reports are prepared jointly by the installation's engineering and environmental staffs and resource managers, in consultation with EPA.

c. For specific reports required by RCRA and CERCLA (SA-RA), see chapters 6 and 9, respectively.

12-12. Environmental quality awards (RCS DD-P&L(A)-670)

a. *Secretary of Defense (SECDEF) award.* The SECDEF presents an annual award to the DOD installation that has achieved noteworthy improvement in environmental quality in the prior 2 years. In addition, an individual award is given to the military or civilian employee who has made the most significant contribution to the environmental quality program during the preceding 2 years. DA nominees for the SECDEF award will be the individual and the installation selected to receive the Secretary of the Army (SA) award.

b. *SA awards.* The SA presents an environmental quality award to the individual and the installation that have shown the most noteworthy contributions toward protecting and preserving the quality of the environment during the preceding 2 years. To recognize the effect of different missions of installations, the award will be given on alternate years to an industrial installation (Category A) and to a nonindustrial installation (Category B). Category A installations are defined as those with a primary mission of producing, maintaining, or rehabilitating military materiel.

c. *Nomination procedures.* Instructions on preparation of submittals for the installation and individual awards are in DOD Instruction 4700.2.

(1) Additional instructions on report format and content are as follows—

(a) *Installation submittal.*

1. Submittals should highlight specific environmental protection and pollution abatement accomplishments of the installation. Natural resources and energy conservation information may be included, if particularly relevant, to demonstrate a comprehensive program.

2. The use of color photographs is encouraged. Submittals should include at least one 8 × 10" color photograph of a representative portion of the installation.

(b) *Individual submittal.*

1. Photographs should not accompany the submission.

2. Nominations should, at a minimum, address the individual's special accomplishments and significant contributions to DOD goals by considering the topical areas described in the format for installation submittals.

3. Any other appropriate information, such as related professional achievements, may be included.

(2) Nominations should not exceed the number listed in table 12-1.

Table 12-1
Installation and individual submittals

Command	Number of nominees
Installation submittals	
AMC	8
FORSCOM	4
TRADOC	4
Other CONUS MACOMs and the NGB Army Directorate	2
Individual submittals	
AMC	4
FORSCOM	4
TRADOC	4
Other CONUS MACOMs and the NGB Army Directorate	2
OCONUS commands	2
Army Staff	2

(3) Each list of nominations will be accompanied by six copies of individual narratives. The list for the annual award will be submitted to HQDA (ENVR-E) WASH DC 20310-2600 by 31 March. Narratives will be typewritten and fastened in 9" × 11" inch folders (approximately).

d. *Selection procedures.* A committee consisting of members representing each element of the Army Staff will evaluate the narratives. Recommendations will be forwarded by the ACE to the DASA (ESOH).

e. *Report control.* The information requirements associated with the above awards have been assigned RCS DD-P&L(A)670.

f. For information about the hazardous waste reduction awards program, see paragraph 6-6f.

12-13. Environmental quality control committee

a. *Requirement.* Each installation, except satellite installations, will have an EQCC. In overseas areas, the EQCC may be organized at the military community level, including major and satellite installations and tenant activities.

b. *Members and functions.* The EQCC is comprised of members representing the command, operational, engineering, planning, resource management, legal, safety, and medical interests of the installation, including tenant activities. The EQCC acts on the broad range of environmental issues covered in this regulation. The EQCC advises the IC on environmental priorities, policies, strategies, and programs. At a minimum, membership of the EQCC will include—

(1) The installation or community commander or a designated representative, who will serve as the chairperson.

(2) The DEH, who will act as the executive secretary.

(3) The environmental officer.

(4) The director of each major staff section of the installation or community.

(5) Representatives from the following offices or functions: medical, safety, surety, range management, resource management, supply, DRMO, director of industrial operations (DIO), and public affairs. Other offices may also be represented.

(6) The commanders from each tenant unit, agency sponsor, and activity.

(7) Satellite installation or subcommunity commanders and others deemed appropriate by the installation or community commander.

c. *Frequency of meetings.* The EQCC will normally convene monthly.

d. *GOCO installations.* AMC will establish guidance and instructions for formation of EQCCs at GOCO installations, to include the services of qualified operating personnel in an advisory capacity.

12-14. Selection of military construction sites

Every effort must be made to assure that builders and future occupants of military facilities will not be exposed to health and safety risks resulting from sites contaminated by hazardous substances or unexploded ordnance. Therefore, all Army entities responsible for

the selection of military construction sites will conduct environmental surveys prior to site selection, per AR 415-15.

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Appendix A References

Section I Required Publications

Note. Copies of the following may be found in your legal office or law library compiled under "U.S. Code Congressional and Administrative News."

Asbestos Hazard Emergency Response Act (AHERA) of 1986. (Cited in para 10-1a(7) and 10-3d(1).)

Clean Air Act, as amended (42 USC 7401, et seq.). (Cited in paras 4-1a(1), 4-2b, 10-1a(1), and 10-4a.)

Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA, Superfund) (42 USC 9601 et seq.). (Cited in paras 4-1a(3)(c), 4-2e, 5-4a(2), 5-7, 9-1a(1), 9-8, 9-8b(1)(c), 12-5d(1)(a), and 12-6c(3).)

Emergency Planning and Community Right-To-Know Act of 1986. (Cited in paras 8-1d(5) and 1-28g(11).)

Endangered Species Act of 1973. (Cited in para 12-3.)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 USC 136, et seq.). (Cited in paras 1-23b(1)(a) and 5-1b(1).)

Federal Water Pollution Control Act (FWPCA), as amended by Clean Water Act of 1977 (33 USC 1251, et seq.). (Cited in paras 3-1a(2) and 8-1d(6).)

Military Procurement Act of 1979 as amended (as codified in scattered sections of 10 USC). (Cited in para 6-9a.)

National Environmental Policy Act (NEPA) of 1969, as amended (42 USC 4321, et seq.). (Cited in paras 5-6c, 6-5a, 6-9a, 9-7b, 10-1a(2), 12-2, and 12-5c.)

National Historic Preservation Act of 1966, as amended (16 USC 470 et seq.). (Cited in para 12-4.)

National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 300). (Cited in paras 8-1d(7), and 1-25h(8).)

Noise Control Act of 1972 (42 USC 4901). (Cited in paras 7-1b(2) and 7-4a.)

Occupational Safety and Health Act of 1970 (29 CFR 1910.20). (Cited in paras 1-14, 1-16a(1), and 8-1d(8).)

Quiet Communities Act of 1978 (as codified in scattered sections of 42 USC and 69 USC). (Cited in para 7-1b(1).)

Resource Conservation and Recovery Act (RCRA), as amended (42 USC 6901, et seq.). (Cited in paras 4-1a(3)(a), 5-7, 6-1a(1), 6-7j, 6-8b, 6-9a, 8-1d(9), 9-1a(3), 10-1a(4), and 12-5d(1)(b).)

Safe Drinking Water Act, as amended (42 USC 1441, et seq.). (Cited in para 10-1a(5).)

Superfund Amendment and Reauthorization Act (SARA) of 1986 (PL99-499). (Cited in paras 4-1a(3)(d), 4-2f, 8-1d(5), 9-1a(1), 9-4a(1), and 10-1a(6).)

Toxic Substances Control Act (TSCA), as amended (15 USC 601). (Cited in paras 4-1a(3)(b), 5-1b(2), 5-2h, 5-6a(1), and 8-1d(10).)

10 United States Code (USC) 2705
(Cited in paras 9-7c 9-8b(1)(c).)

Note. CFRs may be found in your legal office or law library. Copies may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

10 CFR
Energy. (Cited in para 5-8c.)

29 CFR
Labor. (Cited in para 5-8c.)

29 CFR 1910
Occupational Safety and Health Standards. (Cited in paras 1-9a(4), 1-14, 1-19e(4), 1-25, 5-9b, 8-6c(4), and 10-2f, and 10-2i.)

29 CFR 1917
Marine terminal. (Cited in paras 1-14 and 1-19e(4).)

29 CFR 1926
(Cited in paras 10-2f and 10-2i.)

29 CFR 1926.58
OSHA Asbestos Standard for the Construction Industry. (Cited in paras 1-4, 1-19e(4), 10-3b(3), and 10-2f and i.)

33 CFR 159
Coast Guard Regulations on Marine Sanitation Devices. (Cited in para 3-5a(1).)

40 CFR 60
EPA Standards of Performance for New Stationary Sources. (Cited in para 4-2b(2).)

40 CFR 61
EPA National Emission Standards for Hazardous Air Pollutants. (Cited in para 4-2b(3).)

40 CFR part 61, subpart M
USEPA National Emission Standard for Asbestos. (Cited in para 10-4a.)

40 CFR 85
Control of Air Pollution From Motor Vehicles and Motor Vehicle Engines. (Cited in paras 4-2b(6) and h.)

40 CFR 86
Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures. (Cited in paras 4-2b(6) and h.)

40 CFR 87
Control of Air Pollution From Aircraft and Aircraft Engines. (Cited in paras 4-2b(6) and h.)

40 CFR 110
EPA Regulation on Discharge of Oil. (Cited in paras 8-1d(1) and 8-4c(1)(b).)

40 CFR 112
EPA Regulation on Oil Pollution Prevention. Non-Transportation-Related Onshore and Offshore Facilities. (Cited in paras 8-1d(1) and 8-4c(1)(b).)

40 CFR 116
Designation of Hazardous Substances. (Cited in para 8-1d(1).)

40 CFR 117
Determination of Reportable Quantities for Hazardous Substances. (Cited in para 8-1d(1).)

40 CFR 122

EPA Administered Permit Programs: The National Pollutant Discharge Elimination System. (Cited in para 8-1d(1).)

40 CFR 129

EPA Toxic Pollutant Effluent Standards. (Cited in para 8-1d(1).)

40 CFR 140

Marine Sanitation Device Standard. (Cited in para 3-5a(3).)

40 CFR 173

Procedures Governing the Recision of State Primary Enforcement Responsibility for Pesticide Use Violations. (Cited in para 5-9f.)

40 CFR 260

Hazardous Waste Management System: General. (Cited in paras 4-2c(3) and 8-1d(1).)

40 CFR 261

Identification and Listing of Hazardous Waste. (Cited in paras 4-2c, 6-4c(4), 6-6c(2)(c), 6-6c(2)(d), 6-7i(3), and 8-1d(1).)

40 CFR 262

Standards Applicable to Generators of Hazardous Waste. (Cited in paras 6-4c, 6-4g, 6-4g(2), 6-6c(1), 6-6c(2)(d), and 8-1d(1).)

40 CFR 263

Standards Applicable to Transporters of Hazardous Waste. (Cited in para 8-1d(1).)

40 CFR 264

Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. (Cited in paras 1-25f(1)(d), 4-2c(1), 1-20c, 6-4b(7), 6-4b(11), 6-13, and 8-1d(1).)

40 CFR 265

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities. (Cited in paras 4-2c(1) and 8-1d(1).)

40 CFR 266

Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities. (Cited in para 4-2c(3).)

40 CFR 267

Interim Standards for Owners and Operators of New Hazardous Waste Land Disposal Facilities. (Cited in paras 6-4b(6) and 6-7.)

40 CFR 268

Land Disposal Restrictions. (Cited in para 5-6a(4).)

40 CFR 270

EPA Administered Permit Programs: The Hazardous Waste Permit Program. (Cited in para 1-25f(1)(h).)

40 CFR 271

Requirements for Authorization of State Hazardous Waste Programs. (Cited in paras 6-4b(6) and 6-7.)

40 CFR 280

Underground Storage Tanks. (Cited in para 5-7b(1).)

40 CFR 300

Superfund Programs. National Oil and Hazardous Substances Pollution Contingency Plan. (Cited in paras 8-1d(1), 8-3b(1)(d), and 9-7b.)

40 CFR 302

Designation, Reportable Quantities, and Notification. (Cited in paras 8-1d(1) and 8-4c(1)(b).)

40 CFR 355

Emergency Planning and Notification. (Cited in paras 4-2f and 8-1d(1).)

40 CFR 761

Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions. (Cited in paras 4-2d, 5-6a(3) and 8-1d(2).)

40 CFR 763

Asbestos-Containing Materials in Schools. (Cited in para 10-2e.)

40 CFR Chapter I, Subchapter N

Effluent Guidelines and Standards. (Cited in para 3-3e(3).)

ANSI S1.4A-1985

American National Standard Specification for Sound Level Meters. (Cited in para 7-4a(3).)

ANSI S1.13-1971(R1976)

American National Standard Methods for the Measurement of Sound Pressure Levels. (Cited in para 7-4a(4).)

ANSI S1.40-1984

American National Standard Specification for Acoustical Calibrators. (Cited in para 7-4a(5).)

ANSI S3.23-1980

American National Standard Sound Level Descriptors for Determination of Compatible Land Use. (Cited in para 7-4a(6).)

ANSI S12.4-1986

American National Standard Method for the Assessment of High-Energy Impulsive Sound With Respect to Residential Communities. (Cited in para 7-4a(7).)

ANSI S12.7-1986

American National Standard Methods for the Measurement Impulse Noise. (Cited in para 7-4a(8).)

ANSI S12.9-1988

American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound. (Cited in para 7-4a(9).)

AR 11-28

Economic Analysis and Program Evaluation for Resource Management. (Cited in paras 6-4f(1) and 6-14a(4).)

AR 40-5

Preventive Medicine. (Cited in paras 1-23b(3), 1-28b(6), 3-4c(3), 5-1e, 5-5d, 5-8c(1), 6-4c, 6-9b, and 6-11g.)

AR 40-66

Medical Record and Quality Assurance Administration. (Cited in para 1-28b(6).)

AR 70-1

Army Research, Development, and Acquisition. (Cited in para 2-2.)

AR 95-1

Army Aviation: Flight Regulations. (Cited in para 7-1b(6).)

AR 200-2

Environmental Effects of Army Actions. (Cited in paras 5-2g, 5-6c, 6-4d(3), 6-4e(1)(e), 6-5a, 6-9a, 7-6, 9-7a, 9-7b, 9-7e(1)(b) and (c), 10-3h, 10-4d, 12-2, and 12-5c(1).)

AR 210-70

Intergovernmental Coordination of DOD Federal Development Program and Activities. (Cited in para 7-5i(2).)

AR 385-10

The Army Safety Program. (Cited in paras 1-17a and 10-2f.)

AR 405-10

Acquisition of Real Property and Interests Therein. (Cited in para 12-5a.)

AR 405-80

Granting Use of Real Estate. (Cited in paras 12-5a.)

AR 405-90

Disposal of Real Estate. (Cited in paras 6-13, 10-2o and 12-5a.)

AR 420-40

Historic Preservation. (Cited in para 12-4.)

AR 420-47

Solid Waste Management. (Cited in paras 1-26a(3)(h) and 5-5d.)

AR 420-76

Pest Management Program. (Cited in paras 1-22d(2), 5-5a, 5-5d, and 6-10.)

AR 500-60

Disaster Relief. (Cited in paras 1-28g(13)(a), 8-2f, 8-5a and 8-5b(13).)

AR 700-127

Integrated Logistic Support. (Cited in para 4-2h(6).)

AR 700-141

Hazardous Material Information System. (Cited in para 5-2i.)

DOD Directive 4700.20

Secretary of Defense Awards for Natural Resources and Environmental Management. (Cited in para 12-12c.)

DOD Instruction 7041.3

Economic Analysis and Program Evaluation for Resource Management. (Cited in paras 1-22e(2)(f) and 6-6e(2)(b).)

OMB Circular A-11

Preparation and Submission of Budget Estimates. (Cited in para 12-11b(4).)

OMB Circular A-106

Procedural Requirements in Connection with Federal Compliance with Pollution Control Standards. (Cited in para 12-11b.)

TB 55-1900-206-14

Control and Abatement of Pollution by Army Watercraft. (Cited in para 3-5b.)

TB MED 502

Occupational and Environmental Health: Respiratory Protection Program. (Cited in para 10-2f.)

TB MED 513

Occupational and Environmental Health Guidelines for the Evaluation and Control of Asbestos Exposure. (Cited in paras 1-28b(4) and 1-37a.)

TM 5-633

Natural Resources—Fish and Wildlife Management. (Cited in para 12-3.)

TM 5-634

Refuse Collection and Disposal: Repairs and Utilities. (Cited in para 1-26a(3)(h).)

TM 5-801-1

Historic Preservation; Administrative Procedures. (Cited in para 12-4.)

TM 5-801-2

Historic Preservation; Maintenance Procedures. (Cited in para 12-4.)

TM 5-803-2

Planning in the Noise Environment. (Cited in para 7-6b.)

Section II

Related Publications

A related publications is merely a source of additional information. The user does not have to read it to understand this regulation.

Anti-Deficiency Act (31 USC 1341).

Archaeological Resources Protection Act of 1979 (16 USC 470 aa-11).

Atomic Energy Act (42 USC 2011, et seq.).

Aviation Safety and Noise Abatement Act of 1979 (as codified in scattered sections of 49 USC).

Federal Property and Administrative Services Act of 1949 (40 USC 484).

Hazardous Materials Transportation Act.

Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended (Ocean Dumping) (16 USC 1401, et seq.).

Military Construction Authorization Act FY 1975 (as codified in scattered sections of 3 USC, 10 USC, 18 USC, and 30 USC).

River and Harbor Act of 1889 (33 USC 401, et seq.).

10 USC 2692.

42 USC 9617.

42 USC 9620.

50 USC 1511-1521.

10 CFR 20

Nuclear Regulatory Commission Standards for Protection Against Radiation.

24 CFR 51

Department of Housing and Urban Development Environmental Criteria and Standards.

32 CFR 60

National Register of Historic Places.

32 CFR 229

Archaeological Resources Protection Act of 1979: Final Uniform Regulations.

33 CFR 153-157

Coast Guard Regulations on Oil Spills (includes Pollution Control, Oil Transfer Facilities, Vessel Design, Oil Transfer Operations, and Vessels Carrying Oil in Domestic Trade).

33 CFR 209

Army Corps of Engineers Regulations on Navigable Waters.

40 CFR
Protection of Environment.

40 CFR 125
EPA Regulations on Criteria and Standards for the National Pollution Discharge Elimination System.

40 CFR 141
National Primary Drinking Water Regulations.

40 CFR 143
National Secondary Drinking Water Regulations.

40 CFR 202
EPA Noise Emission Standards for Motor Carriers Engaged in Interstate Commerce.

40 CFR 204
EPA Noise Emission Standards for Portable Air Compressors.

40 CFR 205
EPA Noise Emission Standards for Transportation Equipment.

40 CFR 225
Corps of Engineers Dredged Material Permits.

40 CFR 240-241
Environmental Protection Agency Guidelines for the Thermal Processing of Solid Wastes and for the Land Disposal of Solid Wastes.

40 CFR 243
Environmental Protection Agency Guidelines for Solid Waste Storage and Collection.

40 CFR 245
Environmental Protection Agency Guidelines for Resource Recovery Facilities.

40 CFR 246
Environmental Protection Agency Guidelines for Source Separation for Materials Recovery.

48 CFR 6
Federal Acquisition Regulations System Competition Requirements.

49 CFR
Water Transportation.

49 CFR 171
Hazardous Materials Regulations: General Information, Regulations, and Definitions.

49 CFR 172
Hazardous Materials Tables and Hazardous Materials Communications Regulations.

49 CFR 173
Shippers General Requirements for Shipment and Packaging.

49 CFR 174
Carriage by Rail.

49 CFR 175
Carriage by Aircraft.

49 CFR 176
Carriage by Vessel.

49 CFR 177
Carriage by Public Highway.

49 CFR 178
Shipping Container Specifications.

49 CFR 179
Specifications for Tank Cars.

ANSI S2.20-1983
American National Standard for Estimating Airblast Characteristics for Single Point Explosions in Air, With a Guide to Evaluation of Atmospheric Propagation.

AR 5-4
Defense Productivity Enhancing Capital Investment Program.

AR 10-5
Organization and Functions, Department of the Army.

AR 10-69
United States Army Corps of Engineers.

AR 37-108
General Accounting and Reporting for Finance and Accounting Offices.

AR 37-120
Army Procurement Appropriation (PA) Management Accounting and Reporting System (APARS).

AR 40-7
Use of Investigational Drugs in Humans and the Use of Schedule I Controlled Drug Substances.

AR 40-13
Medical Support-Nuclear/Chemical Accidents and Incidents.

AR 40-14
Control and Recording Procedures for Exposure to Ionizing Radiation and Radioactive Materials.

AR 40-40
Documentation Accompanying Patients Aboard Military Common Carriers.

AR 40-61
Medical Logistics Policies and Procedures.

AR 40-574
Aerial Dispersal of Pesticides.

AR 50-5
Nuclear Surety.

AR 50-6
Chemical Surety Program.

AR 55-228
Transportation by Water of Explosives and Hazardous Cargo.

AR 55-355
Military Traffic Management Regulation.

AR 56-9
Watercraft.

AR 70-65
Management of controlled substances, Ethyl Alcohol and Hazardous Biological Substances in Army Research, Development, Test and Evaluation Facilities.

AR 75-1
Malfunctions Involving Ammunition and Explosives.

004199

AR 75-14
Interservice Responsibilities for Explosive Ordnance Disposal.

AR 75-15
Responsibilities and Procedures for Explosive Ordnance Disposal.

AR 210-20
Water Planning for Army Installations.

AR 335-15
Management Information Control System.

AR 360-5
Public Information.

AR 360-61
Community Relations.

AR 360-81
Command Information.

AR 385-11
Ionizing Radiation Protection (Licensing, Control, Transportation, Disposal and Radiation Safety).

AR 385-16
System Safety (Engineering and Management).

AR 385-30
Safety Color Code Markings and Signs.

AR 385-32
Protective Clothing and Equipment.

AR 385-40
Incident Reporting and Records.

AR 385-60
Coordination with Department of Defense Safety Board.

AR 385-61
Safety Program for Chemical Agents and Associated Weapon Systems.

AR 385-63
Policies and Procedures for Firing Ammunition for Training, Target Practice, and Combat.

AR 385-64
Ammunition and Explosives Safety Standards.

AR 385-80
Nuclear Reactor Health and Safety Program.

AR 415-15 (NGR 415-15)
Military Construction, Army (MCA) Program Development.

AR 420-10
Management of Installation Directorate of Engineering and Housing and Personnel.

AR 420-46
Water and Sewage.

AR 420-74
Natural Resources—Land, Forest, and Wildlife Management.

AR 700-64
Radioactive Commodities in the DOD Supply Systems.

004200
AR 700-136
Land Based Water Resources Management in Contingency Operations.

AR 710-2
Supply Policy Below the Wholesale Level.

AR 725-50
Requisitioning, Receipt, and Issue System.

AR 740-32
Responsibilities for Technical Escort of Dangerous Materials.

AR 755 series
Disposal of Supplies and Equipment.

AR 750-1
Army Materiel Maintenance Policies.

AR 750-20
Prevention, Control, and Abatement of Pollution from Mobile Equipment.

CEGS-02080
U.S. Army Corps of Engineers Guidance Specification, Abatement and Disposal of Asbestos Materials, 1988.

CEGS-02081
U.S. Army Corps of Engineers Guidance Specification, Localized Repair and Maintenance Work Involving Asbestos-Containing Material, 1988.

CEGS-02082
U.S. Army Corps of Engineers Guidance specification, Independent Air Monitoring and Analysis During Abatement Procedures of Asbestos-Containing Material, 1988.

CEGS-02083
(U.S. Army Corps of Engineers Guidance Specification, Removal and Disposal of Asbestos-Containing Materials Prior to Demolition, 1988).

Committee on Hearing, Bioacoustics and Biomechanics, (WG84)
Assessment of Community Response to High-Energy Impulsive Sounds, National Research Council (1981).

DA Memorandum from Director of the Army Staff, 20 January 1983, subject: Installation Compatible Use Noise Zone (ICUZ) Program Implementation.

DA Memorandum from Director of the Army Staff, 14 July 1987, subject: Installation Compatible Use Noise Zone (ICUZ) Program Implementation.

DA Pam 40-8
Special Occupational Safety and Health Standards for the Evaluation and Control of Occupational Exposure to Agent GB.

DA Pam 210-4
Coordination of Army Development with State and Local Governments.

DOD 4160.21-M
Defense Reutilization and Marketing Manual, June 1973, authorized by DOD Directive 4160.21, DOD Personal Property Utilization and Disposal Program.

DOD 4270.1-M
DOD Construction Criteria Manual.

DOD Directive 4210.15
Hazardous Material Pollution Prevention.

DOD Directive 5100.50.
Protection and Enhancement of Environmental Quality.

DOD Directive 6050.1
Environmental Effects in the United States of DOD Actions.

DOD Directive 6050.4
Marine Sanitation Devices for Vessels Owned or Operated by the Department of Defense.

DOD Directive 6050.8
Storage and Disposal of Non-DOD-Owned-Hazardous or Toxic Materials on DOD Installations.

DOD Directive 4165.60
Solid and Hazardous Waste Management-Collection, Disposal, Resource Recovery, and Recycling Program.

DOD Directive 4710.1
Archaeological and Historic Resources Management.

DOD Directive 5126.15
Delegation of Authority with Respect to Facilities and Equipment for Metal Scrap Bailing or Shearing, or for Melting or Sweating Aluminum Scrap.

DOD Instruction 4120.14
Environmental Pollution Prevention, Control, and Abatement

DOD Instruction 4165.57
Air Installation Compatible Use Zones

DOD Instruction 5100.5
Protection and Enhancement of Environmental Quality.

EO 11514
Protection and Enhancement of Environmental Quality.

EO 11988
Floodplain Management.

EO 11990
Protection of Wetlands.

EO 12088
Federal Compliance with Pollution Control Standards.

EO 12114
Environmental Effects Abroad of Major Federal Actions.

EO 12580
Superfund Implementation.

EPA Document No. 550/9-74-004
Information on Levels of Environmental Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety (March 1974).

EPA Document No. 560/5-85-018
Asbestos in Buildings-Guidance for Service and Maintenance Personnel (July 1985).

EPA Document No. 560/5-85-024
Guidance for Controlling Asbestos-Containing Materials in Buildings (June 1985).

EPA-560-OPTS-86-001
A Guide to Respiratory Protection for the Asbestos Abatement Industry (September 1986).

EPA Document No. 600/4-85-049
Measuring Airborne Asbestos Following an Abatement Action (November 1985).

EPA Document No. 600/9-79-045
NPDES Best Management Practices Guidance Document (December 1979) (45 FR 17977, 20 March 1980).

Federal Interagency Committee on Urban Noise
Guidelines for Considering Noise in Land Use Planning and Control (1980).

Federal Personnel Manual (FPM), Supplement 271-1.

IEC Publication 804 (1985)
Integrating-Averaging Sound Level Meters.

MIL-STD 129
Marking for Shipment and Storage. (This publication may be obtained from Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120-5009.)

MIL-STD 1474(B)(MI)
Noise Limits for Army Materiel. (This publication may be obtained from Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120-5009.)

OMB Circular A-95
Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects. (This publication may be obtained from the Office of Management and Budget, Office of Economic Policy, room 2200, 725 17th Street, NW., Washington, DC 20503-0001.)

Public Law 99-145, section 1412
Destruction of Existing Stockpile of Lethal Chemical Weapons (November 1985).

SB 8-75
Army Medical Department Supply Information.

TB MED 501
Occupational and Environmental Health: Hearing Conservation.

TB MED 525
Control of Hazards to Health From Ionizing Radiation Used by the Army Medical Department.

TB MED 575
Occupational and Environmental Health: Swimming Pools and Bathing Facilities.

TB MED 576
Occupational and Environmental Health: Sanitary Control and Surveillance of Water Supplies at Fixed Installations.

TB MED 577
Occupational and Environmental Health: Sanitary Control and Surveillance of Field Water Supplies.

TB MED 578
Installation Restoration Program, Health Risk Assessments.

TM 3-250
Storage, Shipment, Handling and Disposal of Chemical Agents and Hazardous Chemicals.

TM 3-261
Handling and Disposal of Unwanted Radioactive Material.

TM 5-612
Asbestos Control

TM 5-629
Herbicide Manual for Noncropland Weeds.

TM 5-630
Ground Maintenance and Land Management.

TM 5-632
Military Entomology Operational Handbook.

TM 5-660
Maintenance and Operation of Water Supply, Treatment, and Distribution Systems.

TM 5-813 series
Water Supply.

TM 5-814-5
Sanitary Landfills.

TM 38-250
Packaging and Materials Handling: Preparation of Hazardous Materials for Military Air Shipment.

USACERL IR N-10
User Manual: Interim Procedure for Planning Rotary Wing Aircraft Traffic Patterns and Siting Noise Sensitive Land Uses (USACERL [USACERL]). Available under AD No. A031450 from National Technical Information Service (NTIS), Springfield, VA 22151.

USACERL IR N-61
Predicting the Noise Impact in the Vicinity of Small-Arms Ranges, Construction Engineering Research Laboratory (USACERL, October 1978). Available under AD No. A062718 from NTIS, Springfield, VA 22151.

USACERL TR E-17
Predicting Community Response to Blast Noise (USACERL, December 1973). Available under AD No. 773690 from NTIS, Springfield, VA 22151.

USACERL TR N-30
Environmental Noise Impact Analysis for Army Military Activities: User Manual (USACERL, November 1977). Available under AD No. A047969 from NTIS, Springfield, VA 22151.

USACERL TR N-60
Acoustic Directivity Patterns for Army Weapons: Supplement 2 (USACERL, 1984). Available under AD No. ADA145643 from NTIS, Springfield, VA 22151.

USACERL TR N-82
Compilation of Operational Blast Noise Data (USACERL, January 1980). Available under AD No. A080429 from NTIS, Springfield, VA 22151.

USACERL TR N-184
Rotary-Wing Aircraft Noise Measurements: Analysis of Variations and Proposed Measurement Standard (USACERL, 1984). Available under AD No. A146207 from NTIS, Springfield, VA 22151.

USAEHA Technical Guide (TG) 122
Noise Map Airfield Contour Data Collection.

USAEHA TG 126
Waste Disposal Instructions.

USAEHA TG-135
Database for Assessing the Noise of Small-Arms.

Section III Referenced Forms

DA Form 4508
Ammunition Transfer Record.

DD Form 1348-1
DOD Single Line Item Release/Receipt Document.

DD Form 1391
Military Construction Project Data.

Section IV Prescribed Forms

EPA Form 3500-7 (EPA-1003)
Federal Agency Pollution Abatement Plan—Project Report. (Prescribed in para 6-6c(2))

EPA Form 7530-1 (OMB #2050-0028)
Notification for Underground Storage Tanks. (Prescribed in para 5-7b(1))

EPA Form 8700-13A/B (OMB #2050-0024)
Hazardous Waste Generation and Shipment Report/Hazardous Waste Generation and Management Report (Prescribed in para 6-6c(1))

EPA Form 8700-22A (OMB #2050-0039)
Uniform Hazardous Waste Manifest (Continuation Sheet) (Prescribed in para 1-25f(1))

EPA Form 8700-22 (OMB #2050-0039)
Uniform Hazardous Waste Manifest (Prescribed in para 1-25f(1))

Appendix B Environmental Baseline Study (EBS) Protocol

B-1. Introduction

a. An EBS is required by paragraph 12-5. An EBS is a comprehensive evaluation of the existing facility and environmental conditions, particularly regarding hazards and contamination, which is conducted on—

(1) Real property for which a transaction is proposed, whether or not the property is controlled by the Army.

(2) Army-controlled property for which an operating contract, facility contract, or third-party contract is being considered.

b. Typically, an EBS is conducted in a tiered approach and could comprise up to five phases. In some cases, such as the continuation of a pre-existing grazing lease that has had a minimal environmental impact, an EBS might only require—

(1) A short summary of the known environmental conditions of the site, and

(2) A visual site inspection prior to determining the potential risks associated with the site.

c. In all cases, the EBS is intended to develop the minimum amount of information required to assess the potential environmental liabilities associated with the property transaction. An EBS should be conducted early in the planning process of the property transaction planning process so that the Army proponent can—

(1) Be informed of any hazards or contamination associated with the property.

(2) Consider potential significant adverse impacts on the community or environment.

(3) Determine potential environmental liabilities related to the real property transaction.

B-2. Purpose

The purpose of an EBS is to determine the Army's potential liabilities associated with the environmental condition of the proposed property transaction. Once such risks are known, the proponent can choose to proceed or choose to discontinue the property transaction.

B-3. Property and transaction definitions

a. *Real property.* Land; present possessory interests in land; structures, fixtures, and other improvements on land; surface waters and groundwater within the boundaries of the land; other interests in the land; and future interests in land, in the United States, its territories and possessions.

(1) *Type I property.* Property where little potential exists for environmental contamination or disruption from past, present, or proposed activities. Typically, this includes sites in locations such as housing, administrative, or recreational areas where no hazardous materials were known to be stored or used. However, because of the potential for environmental contamination at these properties from such things as leaking underground storage tanks, few properties should be classified as type I. At the conclusion of the survey phase (para B-7), the Army proponent may decide that no further study is indicated, and may proceed to draft the EBS report.

(2) *Type II property.* Property where some potential exists for environmental contamination or disruption from past, present, or proposed activities. This potential may be due to the past historical usage of the property or to its proximity to critical areas such as a wildlife habitat or a sole source aquifer. When any doubt exists about a type I property, it should be redesignated as a type II property. At the conclusion of the survey phase (para B-7), the Army proponent may decide that no further study is necessary, and that little or no potential exists for environmental contamination or disruption from past, present, or proposed activities. In this case, the property should be redesignated to the type I category, and the EBS report should be drafted.

(3) *Type III property.* Property with known environmental contamination or disruption from past or present activities

b. *Transactions.*

(1) *Real property transaction.* Any acquisition, granting of use, or disposal of real property which includes but is not limited to: a sale or disposal action; a temporary use (e.g., an easement or right-of-way) regardless of the proposed duration; an exchange; an interservice support agreement; a transfer of real property to or from another DOD or other Federal agency; a real property transfer, disposal, or other action outside the Army that requires an EA; the granting of a lease, license, permit, or renewal thereof. Also, an operating contract, a facility contract, or a third-party contract concerning the use of Army-controlled property.

(2) *Present possessory.* Real property that is controlled by the DA.

(3) *Army proponent.* The lowest level decisionmaker, i.e., the Army unit, element, or organization responsible for initiating or carrying out the proposed action.

(4) *Transaction proponent.* The unit, element, or organization, other than the Army, responsible for initiating or carrying out the proposed action.

c. *Environmental disruption.* The results of actions that significantly affect the environment, as defined in AR 200-2. Such results would include but not be limited to encroachment on endangered species or habitat, damage to other ecologically sensitive areas, or degradation of water quality.

B-4. Assumptions

a. *Compliance.* An EBS is required for compliance with paragraph 12-5. The EBS protocol is applicable to the U.S. Army (all active, semi-active, and inactive installations), USAR (all installations and activities), and ARNG (all installations, activities, and sites supported with federally appropriated funds), in the United States, its territories, and possessions. The EBS protocol is not applicable to the nonmilitary civil works activities of USACE. Transactions covered by paragraph 12-5 include transfers as well as grants, leases, easements, and other tenancy arrangements, whether within the Army where the current operations would or would not continue, or to/from other Federal agencies and the civilian sector. Consequently, this protocol was prepared to include as many real property transaction scenarios as possible. Only those portions of the protocol that are applicable to the particular proposed transaction or use need be carried out.

b. *Environmental assessment/impact statement.* In the case that the transaction requires an EBS and an EA or EIS, the EBS will be referenced in the *affected environment* portion of the EA or EIS. When the proposed transaction qualifies for a CX, as described in appendix A of AR 200-2, a separate EBS will be prepared prior to the REC and should be included along with the REC for review.

c. *Environmental sampling.* On Army-controlled property, any environmental sampling required for the sampling and investigative phases will be restricted to the installation area. Off-post sampling will be conducted only if a request to do so has been sent through the chain of command to HQDA (ENVR-E) WASH DC 20310-2600, and permission granted by DASA(ESOH).

d. *Buildings, structures, and fixtures.* Buildings, structures, and fixtures will be evaluated for their environmental regulatory compliance only. This would include determining the existence of building contamination. Only those physical plant deficiencies that could affect regulatory compliance will be addressed. This includes such matters as the inadequacy of treatment plant capacity or hazardous waste storage space. Nonregulatory deficiencies—such as leaking roofs, insufficient ventilation, or inadequate public utilities (for example, insufficient electrical service capacity)—will not be considered within the context of the EBS. However, because such matters can be very important, they should be determined separately by the Army proponent.

B-5. Procedure

An EBS may consist of five phases: scope definition, survey, sampling, and investigative and risk assessment. Following the survey phase, and at every phase thereafter, the Army proponent—even in the case that the non-Army party is preparing the EBS—must

determine whether the existing information is adequate to assess the risks involved with the proposed property use.

a. *Technical assistance.* The Army proponent is encouraged to request technical assistance from the following organizations, which can provide advice on data collection and evaluation and on making determinations as to the adequacy of the information gathered in each phase of the study—

- (1) Supporting USACE District, to assist with contracting for conducting the EBS.
- (2) Commander, USAEHSC, Kingman Bldg, Fort Belvoir, VA 22060-5580, for evaluating natural and cultural resources.
- (3) Commander, USAEHA, ATTN: HSHB-MO-B, Aberdeen Proving Ground 21010-5422, for evaluating natural and cultural resources.

(4) Commander, USATHAMA, ATTN: CETHA-EC-S, Aberdeen Proving Ground, MD 21010-5401, for investigating hazardous chemical contamination.

(5) USACE, Huntsville Division (CEHND-ED-PM), PO Box 1600, Huntsville, Alabama 35807-4301 for investigating explosives and unexploded ordnance.

b. *Pre-existing information.*

(1) The Army proponent should consult the USACE District, USAEHSC, or USAEHA to have pre-existing data evaluated for usefulness as part of the EBS where—

(a) A large amount of pre-existing environmental information exists, such as an active IRP project or environmental monitoring reports;

(b) The property is appropriately designated in the type I category.

(2) In other cases, all five phases must be completed.

(3) This evaluation process is illustrated in figure B-1.

c. *Performing the EBS.* The real property transaction proponent must perform the EBS (para B-3), unless Army funding has been provided (para 12-5e(2)). The installation's real estate office must ensure that the EBS is prepared per the requirements of this protocol. Coordination with the organizations listed in B-5a(1), (2), or (3) is recommended. Assistance, review, and signature will be requested from the installation environmental officer.

B-6. Scope definition phase

a. *Purpose.* The purpose of the scope definition phase is to outline the type and extent of the real property transactions being considered and initially define the extent of the EBS required. Typically, an EBS is conducted in a tiered approach and could consist of up to five phases if the proposed property transaction warrants such detail. This phase of the EBS is critical, as it will determine which phases need to be conducted prior to assessing the risks involved with the proposed transfer. In some cases all five phases of the protocol must be conducted; for example, the transfer of an Army industrial site, with suspected contamination, to the civilian sector for unrestricted future use. In other cases it might only be necessary to summarize the existing environmental information and conduct a visual site inspection of the property site; for example, the continuation of an existing agricultural lease that has had a minimal environmental impact. In all cases, the EBS is intended to develop the minimum amount of information required to assess the potential environmental liabilities associated with the property transaction.

b. *Real property transaction type.* Describe the real property, property type (see definition in para B-3), and the proposed duration of use that are subject to the transaction.

c. *Property category.* Define the property category (type I, II, or III) based on such information as prior knowledge and historical records. Where any uncertainty exists regarding the potential for environmental contamination or disruption, the property should be classified as type II.

d. *Parties.* Identify the Army proponent and the other party or parties to the transaction, and state which party initiated the transaction.

e. *Proposed use(s).* Summarize the proposed and potential future uses.

f. *Restrictions.* List any existing or potential restrictions on the future uses of the property.

g. *Remediation responsibilities.* Define the primary responsible party for any potentially required remediation.

B-7. Survey phase

a. *Environmental setting.* The purpose of the survey phase is to generally describe the environmental setting and to identify and evaluate all subject areas concerned.

(1) *Environmental contamination.* This phase should determine the existence of, or potential for, environmental contamination. The environmental contamination analysis will address not only the environment (land, surface waters, and groundwater), but also the buildings, structures, and facilities on the land. In addition, a report on the status of current environmental regulatory compliance will be provided. If no actual or potential contamination or disruption exists, the EBS need not be extended past this phase.

(2) *Additional investigation.* Where actual or potential environmental contamination or disruption exists, this phase must determine whether any additional investigation is warranted prior to the risk assessment phase. For sites where an extensive amount of information exists, such as a completed IRP project, the remaining phases of the study (para B-5b) may not have to be completed.

(3) *Analysis.* Typically, the survey phase will consist of an analysis of existing information along with a visual site inspection of potential contamination sources. No new information should need to be developed to complete the survey phase.

(a) *Evaluation areas.* Areas requiring evaluation include, but are not limited to, all existing and former sites involved in generating, transporting, storing, treating, or disposing of hazardous materials/substances/wastes, wastewaters, solid wastes, POL/fuels, explosives, ordnance, and other potential hazards, such as excessive noise, asbestos, or radon gas.

(b) *Typical locations.* Typical locations to be surveyed include industrial operations, maintenance activities, laboratories, storage facilities, burning grounds, impact areas, landfills, incinerators, treatment plants, USTs, and former oil or hazardous substance spill sites.

(c) *Other areas.* Other matters requiring evaluation include but are not limited to: forests and woodlands, fish and wildlife populations and habitat, threatened and endangered species, soils and vegetation, A&G uses, prime and unique farmland, native prairies and grasslands, surface water and groundwater supplies and quality, wetlands and flood plains, outdoor recreation resources, and cultural and historical resources.

(4) *Simple transactions.* For simple transactions, such as the continuation of existing agricultural leases, it may be necessary to conduct only the survey phase. This must be examined for each specific situation, as even a simple transaction could pose significant liabilities. For example, agricultural leases could result in soil and groundwater contamination of Army property due to improper use of pesticides and herbicides. Grazing leases could result in claims against the Army in the event that the cattle grazed on contaminated land.

b. *Environmental setting.* This element establishes the environmental framework for the subject property and its vicinity. This information is necessary for investigating the potential migration pathways of contaminants, evaluating the potentially exposed human populations, determining which environmental media may require additional sampling, and determining whether the potential exists for environmental disruption. Sources for this information include IRP documents, installation assessments, installation or programmatic EA/EISs, installation master and mobilization plans, regulatory permit applications, and reports prepared by other agencies such as USAEHA, USATHAMA, U.S. Geological Survey, U.S. Soil Conservation Service, and State, regional, and local planning organizations.

(1) *General information.* Special conditions relating to the property, such as inclusion in a public planning district, proximity to a national wilderness area, or other Army or non-Army jurisdictional limitations on real property uses.

(2) *Property information.* Background information that includes a description of the physical and environmental framework of the property. This information should be obtained primarily from a review of existing documentation, which should be referenced whenever possible.

(a) *History.* Description of past and present activities on/in the property. Include any data on past and present generation of hazardous substances or wastes.

(b) *Location.* A map should show the subject property in its geographical context. A scale of 1:24,000 is suggested.

(c) *Physiography/surface hydrology.* Topography, flood plain and wetland locations, low and minimum receiving stream flow, water supply capabilities, and flood potential of existing and proposed use.

(d) *Soils.* Type, depth, erosion, and contaminant migration potentials.

(e) *Geology.* Summary of the geology of the region and the subject property, emphasizing the potential for migration of contaminants.

(f) *Hydrogeology.* Depth to uppermost aquifer, ground water quality, rate and direction of flow, water supply capabilities, potential for contaminant migration, and potential for contaminating deeper aquifers.

(g) *Meteorology.* Precipitation and evaporation rates, prevailing wind speed and direction, temperatures.

(h) *Contaminated structures, buildings, or fixtures.* An identification of the structure and the kind of contamination potential, for example, asbestos, radon, PCB transformers, pesticides/rodenticides/herbicides, chemical agents, explosives.

(i) *UXO.* Description includes types, locations, and amounts.

(j) *Land use patterns.* Residential, commercial, industrial, agricultural, etc., compatibility of proposed use with existing neighboring use.

(k) *Noise.* For Army-controlled property, the ICUZ contours. For non-Army property, an assessment of the ambient and, if applicable, the potential noise level contours of the proposed use and the possible impact of such noise on Army activities.

(l) *Existing ecological baseline.* Subject areas include but are not limited to those listed in a(3)(c) above.

(m) *Miscellaneous.* Any additional concerns specific to the property.

c. *Population.* This element summarizes the existing and potential human populations on the property and in the region. This information is needed to assess the potential for exposure to any contamination that might result from the proposed use of the property. Sources of this type of information include the installation master and mobilization plans; State, regional, and local planning agencies; and commercial demographic surveys. In very few cases are future populations on Army-controlled property known, (for example, stationing of a new infantry division) and must therefore be assumed, using reasonable, yet conservative procedures.

d. *Environmental compliance.* This element summarizes the status of compliance with existing environmental requirements, any closure requirements if pollution control facilities would have to be abandoned due to the transaction, and any anticipated future regulatory requirements. Sources of this information include the installation's environmental and spill contingency plans, regulatory agency inspection reports, discharge monitoring data, USAEHA environmental audits and program reviews, closure plans, and mobilization environmental exercises.

(1) *Current regulatory status.* Review existing conditions to determine any substantive or administrative violations of environmental regulations. Identify any current or pending enforcement actions.

(2) *Closure requirements.* Review existing facilities to determine necessary closure requirements for existing environmental permits.

(3) *Future regulatory status.* Review proposed property usage to determine future regulatory requirements.

e. *Survey of sites of potential environmental concern.* This element summarizes each site having an existing or potential environmental impact. Suggested sources of this information include

IRP documents, RCRA facility assessment documents, solid waste management unit (SWMU) evaluations, treatment plant evaluations, permit applications, installation or programmatic EA/EISs, and installation spill contingency plans.

(1) Site survey summary.

(2) Individual site descriptions.

(a) Site type (for example, generation, storage, or disposal site).

(b) Site area and site map (maximum scale of 1 inch = 50 feet).

(c) History.

(d) Operating practices.

(3) Materials/wastes used or generated.

(a) Material/waste summary.

(b) Physical/chemical/toxicological characteristics.

(c) Migration and dispersal characteristics.

(d) *Evidence of impact.* Includes an evaluation of the adequacy of existing data to determine the potential for the presence or absence of contamination or impact.

f. *Exposure assessment.* Includes a summary of the potential for exposing existing and future human populations to an adverse environmental impact.

g. *Summary of findings.* All known and identifiable potential sources of contamination and environmental disruption, if any, should be identified and evaluated for their adverse environmental impact potential. This report should provide the basis, if applicable, for future sampling and the technical justification where no sampling beyond the existing data is deemed necessary. Recommendations should include a list of those sites or areas, if any, that should be studied further and a description of the kind of study necessary. The report should reach one of the following possible conclusions on all sites—

(1) *Risk assessment.* If no additional sampling beyond the existing data is necessary, due to the absence of significant pollution potential, then the risk assessment phase should be conducted.

(2) *Investigative.* If adequate data are available to determine the presence of contamination or disruption, but not its extent, then the investigative phase should be conducted.

(3) *Sampling.* If insufficient data are available to determine either the presence or the absence of contamination or disruption, then the sampling phase should be conducted.

(4) *EBS draft report.* If, at the conclusion of the survey phase, a type I property remains as originally categorized, no further study will be needed. Therefore, the EBS report may now be drafted.

B-8. Sampling phase

a. *Purpose.* The purpose of the sampling phase is to verify the presence or absence of environmental contamination or disruption. Appropriate sampling and analyses are conducted at all areas or sites identified in the survey phase for which additional data are needed in order to assess the risks involved with the property transfer. This sampling is not intended to determine the magnitude and extent of any contamination, but only confirm its presence or absence. Standard methodologies such as those listed in para B-13 should be employed. Following the sampling phase, the resulting data should be evaluated to determine the need for additional study. The outline at b below is provided for scoping purposes; however, a more detailed outline is not possible because of the site-specific nature of the sampling phase.

b. *Functional elements of the sampling phase.*

(1) Locations for sampling.

(2) Analytical parameters.

(3) Analytical methodology.

(4) Sampling methodology.

(5) QA/QC procedures.

(6) SOH plan.

(7) Decontamination procedures.

(8) Data evaluation procedures.

(9) Report preparation/presentation.

c. *Report of findings.* This report should include an account of the sampling recommended in the survey phase. A sufficient amount of sampling data should be presented for each site that would reasonably verify the presence or absence of contamination

or impact. This report should provide the basis for any future investigation, as well as the technical justification where no further investigation is deemed necessary. The report should reach one of these two possible conclusions on all sites—

(1) *Risk assessment.* If no additional investigation is necessary to the confirmed absence of impacts, then the risk assessment phase should be conducted.

(2) *Investigative.* If an adequate amount of data is available to determine the presence of an environmental impact, but not its extent, then the investigative phase should be conducted.

B-9. Investigative phase

a. *Purpose.* The purpose of the investigative phase is to determine the nature, magnitude, and extent of any environmental impacts. The appropriate study is conducted at all areas or sites identified in the sampling phase as requiring additional data. Standard methodologies such as those listed in para B-13 should be employed. The investigative phase should result in sufficient data to assess the risks associated with the proposed property transaction. A suggested outline for the investigative phase is presented below for scoping purposes. A more detailed outline is not possible because of the site-specific nature of this phase.

b. *Functional elements of the investigative phase.*

- (1) Locations for sampling.
- (2) Analytical parameters.
- (3) Analytical methodology.
- (4) Sampling methodology.
- (5) Field testing methodology.
- (6) QA/QC procedures.
- (7) SOH plan.
- (8) Decontamination procedures.
- (9) Data evaluation procedures.
- (10) Report preparation/presentation.

c. *Report of findings.* The investigation phase should result in sufficient information to determine the nature, magnitude, and extent of any environmental contamination or disruption. This should include, but not be limited to, defining the lateral and vertical extent of contamination, the magnitude of contamination present, the directions and rates of contaminant migration, and the magnitude and impacts of any environmental disruption. Following the investigative phase, enough information should be provided to adequately conduct the risk assessment phase.

B-10. Risk assessment phase

a. *Purpose.* The purpose of the risk assessment phase is to characterize the risks associated with the property transfer, when some potential for environmental contamination or disruption has been identified in a preceding phase of the study. This should include both human health and environmental or ecological risks. Standard risk assessment methodologies should be used wherever possible, such as those listed in para B-13 (for example, EPA methods for public health risk assessment and environmental impact assessment used for conducting EAs and EISs). In effect, the risk assessment phase is analogous to the environmental consequences section of an EIS. Occasionally, because of unique site considerations such as military-unique contaminants, the development of risk assessment methods for the subject real property may be necessary. Any assumptions required for the risk assessment process should be reasonable yet conservative. All human health risk assessments must be approved by HQDA (SGSP-SP), per the requirements of paragraph 1-16c(6).

b. *Human health risk assessment.*

(1) *Contamination assessment.*

(a) *Contaminant identification.* Determine the types and quantities of contaminants present at the site.

(b) *Contaminant hazard identification.* Determine the significance of those contaminants (that is, toxicity, migration potential,

c.). Select driver or indicator contaminants.

(2) *Exposure assessment.*

(a) *Contaminant release analysis.* Evaluate the release potential for each contaminant and identify each on-site release point and estimate the potential quantity of such release.

(b) *Contaminant transport and fate analysis.* Determine the extent and magnitude of those contaminants. Determine the potential exposure pathways. Evaluate the contaminants' physical/chemical properties.

(c) *Exposed populations analysis.* Identify, enumerate, and characterize those human population segments that might become exposed to the contaminants.

(d) *Integrated exposure analysis.* Determine individual, chemical-specific exposure assessments for each potential exposure route. Determine total exposure to contaminants from all routes.

(e) *Uncertainty analysis.* Analyze the uncertainties associated with the exposure assessment process. This includes such things as the assumed input variables (intake rates, migration characteristics, exposure pathways, contaminant release rates, etc.)

(3) *Public health assessment.*

(a) *Toxicity analysis.* Determine the toxicity of the contaminants.

(b) *Intake analysis.* Determine human intake rates.

(c) *Uncertainty analysis.* Analyze the uncertainties associated with the public health assessment process. This includes such items as the baseline toxicological data, extrapolation of animal studies data to human health effects, use of high-dose animal studies to model low-dose environmental exposure, and use of models for dose-adverse effects.

(4) *Risk characterization.* Determine the public health risks associated with the intakes; that is, what the likelihood is that humans will experience any of the various forms of toxicity associated with the site contamination. Summarize total risks associated with exposure to the site. (Social, economic, and political considerations are not included.)

c. *Ecological risk assessment.* Determining the impact of environmental disruptions on ecosystems is very difficult due to their natural variability and the incomplete data derived from investigations. No single set of risk assessment methods is universally applicable to all ecological risk assessment problems. The variations in types of stresses, receptors, ecological conditions, and available data require risk assessment methodology which can be adapted to site-specific conditions. The methodology summarized below is provided for guidance only, and should be adapted for local conditions where necessary.

(1) *Hazard identification.* Evaluate site-specific data on environmentally disruptive factors. This would include environmental contamination as well as attributes such as a proposed change in land use and wildlife habitats.

(2) *Exposure assessment.* Identify the potential exposed populations and their distribution in the affected areas.

(3) *Ecological disruption assessment.* Determine the potential environmental or ecological disruption from the various stresses, commonly relying on modelling.

(4) *Risk characterization.* Determine the ecological risks associated with the exposures or disruptions; that is, what the likelihood is that an ecosystem will experience any degradation due to environmental contamination or disruption. Summarize total risks associated with exposure to the site, together with estimates of costs and duration of time needed for mitigation or remediation of the contamination or disruption from past, present, or proposed activities. (Social and political considerations are not included.)

d. *Report of findings.* At the conclusion of the risk assessment phase, sufficient information should exist to determine the potential public health and ecological risks associated with the proposed property transaction. This information should be presented in a final report that summarizes the findings of this phase.

B-11. EBS report

Following completion of the EBS, the entire EBS effort will be compiled in a single draft report. The EBS report format should follow the format of the EBS protocol.

a. *Executive summary.* The Army proponent will ensure that the EBS report contains an executive summary of all findings and recommendations resulting from each phase of the study. This summary will draw conclusions and provide recommendations on the acceptability of the proposed real property transaction. For a

type I property, the summary will include the following statement: "The survey phase of this study has identified little or no potential for environmental contamination or disruption from past, present, or proposed activities."

b. *Review process.* The Army proponent will forward the draft EBS report along with the associated REC, EA, or EIS to the appropriate Army reviewing office. The reviewing office will use the EBS protocol section-by-section as guidance for determining the adequacy of the draft EBS.

(1) *Adequate EBS.* If the EBS is deemed adequate, the Army proponent will incorporate it by reference and provide a copy of the EBS executive summary within the associated final REC, EA, or EIS. The complete EBS will be preserved in the same files as the background materials that support the REC, EA, or EIS, and in the same location and together with the final REC, EA, or EIS. In addition, if the transaction is such that the Army retains possessory rights (for example, reverter clause, reservation of right to re-enter, outgrants, land use permits), copies of the complete EBS report will be preserved, at a minimum, in the Army proponent's office and in the Army real estate office that carried out the transaction.

(2) *Inadequate EBS.* If the EBS is deemed inadequate, the reviewing office will return it to the Army proponent for revision and resubmittal for review.

B-12. Modifications

Prior to conducting an EBS, the Army proponent should ensure that the methodology to be used complies with the guidance presented in this protocol. Requests to use a methodology outside the scope of this protocol should be submitted in writing through command channels to HQDA (ENVR-E) WASH DC 20310-2600 for approval prior to conducting the EBS.

B-13. References

A listing of suggested references is included below. This list should not be considered all-inclusive.

a. Army regulations.

- (1) AR 200-2.
- (2) AR 405-10.
- (3) AR 405-80.
- (4) AR 405-90.

b. USACERL publications.

- (1) Environmental Review for Management Action (environmental audit protocol, draft technical report).
- (2) Guidelines for Review of EA-EIS Documents, Technical Report N-92.
- (3) Procedures for Environmental Impact Analysis and Planning, Technical Report N-130.

c. USAEHA publications.

- (1) Environmental Operations Review Protocol.
- (2) Environmental Sampling Guide, TG 155, July 1987.
- (3) Water Quality Information Paper No. 32: Risk Analysis and the Development of Water Quality Criteria, September 1988.

d. EPA publications.

- (1) Expanded Site Inspection, Transitional Guidance for FY 1988, Office of Solid Waste & Emergency Response (OSWER) Directive 9345.0-02 (USEPA, Office of Remedial Response (OERR), October 1987).
- (2) Guidance on Feasibility Studies under CERCLA (EPA, OSWER, April 1985).
- (3) Guidance on Remedial Investigations Under CERCLA, (EPA, OSWER, May 1985).
- (4) Handbook, Ground Water, EPA-625/6-87-016 (EPA, Office of Research and Development (ORD), March 1987).
- (5) Handbook for Sampling and Sample Preservation of Water and Wastewater, EPA-600/4-82-029 (EPA, ORD, September 1982).
- (6) Methods for Chemical Analysis of Water and Wastes, EPA-600/4-79-020 (EPA, ORD; revised March 1983).
- (7) Preliminary Assessment Guidance, FY 1988, OSWER Directive 9345.0-01, (EPA, OERR, January 1988).

(8) Preparation of Soil Sampling Protocol: Techniques and Strategies, EPA-600/4-83-020 (EPA, ORD May 1984).

(9) RCRA Ground Water Monitoring Technical Guidance Enforcement Document, OSWER Directive 9950.1 (EPA, OSWER, September 1986).

(10) RCRA Facility Assessment Guidance, Draft, (EPA, OSWER, October 1986).

(11) RCRA Facility Investigation Guidance, EPA 530/SW-87-001, (EPA, OSWER, March 1988).

(12) Sediment Sampling Quality Assurance Users Guide, EPA-600/4-85-048 (EPA, ORD, July 1985).

(13) Soil Sampling Quality Assurance User's Guide, EPA-600/4-84-043 (EPA, ORD, May 1984).

(14) Superfund Exposure Assessment Manual, EPA-540/1-88/001 (EPA, OERR, April 1988).

(15) Superfund Public Health Evaluation Manual, EPA 540/1-86-060 (EPA, OERR, December 1986).

(16) Test Methods for Evaluation of Solid Waste, SW 846, 3d edition (EPA, OSWER, November 1986).

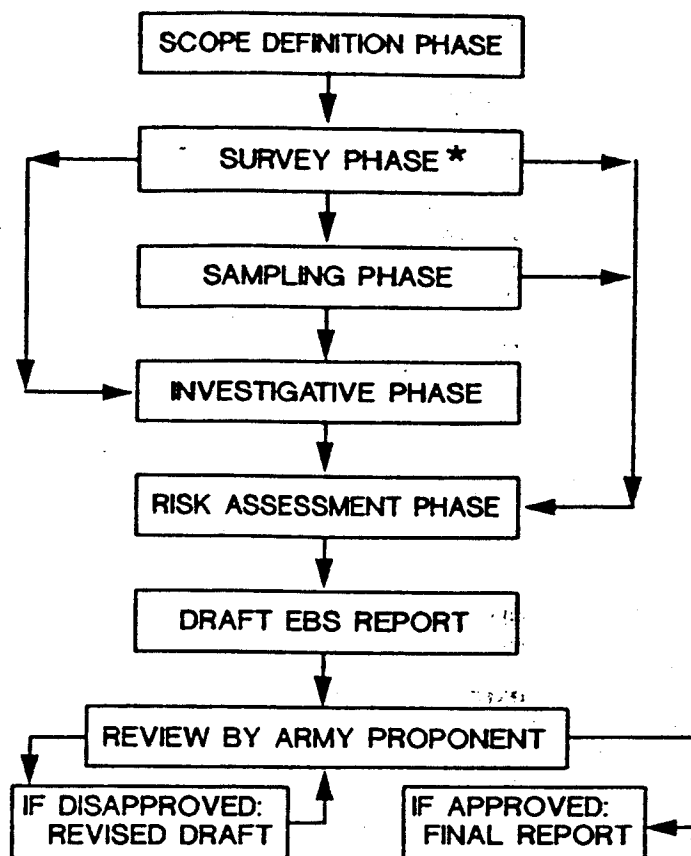
e. Miscellaneous.

(1) U.S. Department of Health and Human Services, Public Health Service, Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities, October 1985.

(2) Water Pollution Control Federation, Wastewater Sampling for Process and Quality Control, 1980.

ENVIRONMENTAL BASELINE STUDY (EBS) FLOW CHART

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★ For a Type I property, the next step after the survey phase is the drafting of EBS Report.

Figure B-1. Environmental baseline study flow chart

Glossary

Section I Abbreviations

A&G

agricultural and grazing

ACE

Assistant Chief of Engineers

ACM

asbestos-containing materials

ADNL

A-weighted DNL

AEDA

ammunition, explosives and dangerous articles

AEO

Army Environmental Office

ASHERA

Asbestos Hazard Emergency Response Act

AICUZ

Air installation compatible use zone

AIF

Army industrial fund

AMC

U.S. Army Materiel Command

AMDF

Army master data file

AMEDD

Army medical department

ANSI

American National Standards Institute

AOC

Army operations center

APARS

Army procurement accounting and reporting system

APG

Aberdeen Proving Ground

AR

Army regulation

ARAR

applicable or relevant and appropriate requirement

ARNG

Army National Guard

ARRP

Army radon reduction program

ASA

Assistant Secretary of the Army

ASA(FM)

Assistant Secretary of the Army (Financial Management)

ASA(IL&E)

Assistant Secretary of the Army (Installation, Logistics, and Environment)

ASA(RDA)

Assistant Secretary of the Army (Research, Development and Acquisition)

ASEL

A-weighted sound exposure level (dB)

ATSDR

Agency for toxic substances and disease registry

ATTN

Attention

BD/DR

building demolition or debris removal

BMP

best management practice

BTU

British thermal unit

CAA

The Clean Air Act

CAIRA

chemical accident/incident response and assistance

CDNL

C-weighted sound exposure level

CDR

Commander

CEC

U.S. Army Communications-Electronics Command

CEGS

U.S. Army Corps of Engineers Guide Specification

CEMP

U.S. Army Corps of Engineers Directorate of Military Programs

CEQ

Council on Environmental Quality

CERCLA

The Comprehensive Environmental Response, Compensation, and Liability Act

CFR

Code of Federal Regulations

CG

Commanding General

CHEMTREC

Chemical Transportation Emergency Center

CINC

Commander in Chief

CNGB

Chief, National Guard Bureau

COB

command operating budget

COE

Chief of Engineers

CONUS

continental United States

CPA

Chief of Public Affairs

CPO

civilian personnel office

CRA

continuing resolution authority

CRDEC

Chemical Research, Development, and Engineering Center (Army)

CWA

The Clean Water Act

CX

categorical exclusion

DA

Department of the Army

DAO

division ammunition officer

DASA(ESOH)

Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health)

DASAF

Director of Army Safety

DASD(E)

Deputy Assistant Secretary of Defense for Environment

dB

decibel

DBCP

dibromochloropropane

DCSLOG

Deputy Chief of Staff for Logistics

DCSOPS

Deputy Chief of Staff for Operations and Plans

DD

defense document

DEFAR
Defense acquisition regulations

DEH
Directorate of Engineering and Housing, or
Director of Engineering and Housing

DERA
Defense Environmental Restoration
Account

DERP
Defense Environmental Restoration
Program

DESR
Defense Environmental Status Report

DFE
director, facilities engineering

DIO
director of industrial operations

DIS
director, installation support

DISFMO
director, installation support, facilities man-
agement office

DLA
Defense Logistics Agency

DMWR
depot maintenance work requirements

DNL
day-night sound level

DOD
Department of Defense

DODAAC
DOD activity address code

DODD
Department of Defense Directive

DODI
Department of Defense Instruction

DOL
Director of Logistics (Director of Supply)

DOT
Department of Transportation

DRD
Directorate of Research and Development

DRM
Defense Reutilization and Marketing

DRMO
Defense Reutilization and Marketing
Organization

DRMS
Defense Reutilization and Marketing
Service

DSHE
Director, Safety, Health, and Environment

DSMOA
DOD and State memorandums of
agreement

DWSP
drinking water surveillance program

EA
environmental assessment

EBS
environmental baseline study

EDB
ethylene dibromide

EIS
environmental impact statement

EO
executive order

EOD
explosive ordnance disposal

EPA
U.S. Environmental Protection Agency

EQCC
environmental quality control committee

EQT
environmental quality technology

ETAB
environmental technical advisory board

EUSA
Eighth U.S. Army

FAR
Federal acquisition regulations

fax
facsimile

FFCA
Federal facility compliance agreement

FIFRA
The Federal Insecticide, Fungicide, and Ro-
denticide Act

FMO
facilities management officer

FNSI
finding of no significant impact

FOA
field operation agency

FORSCOM
Forces Command

FPM
Federal Personnel Manual

FR
Federal Register 004210

FS
feasibility study

FUDS
formerly used defense sites

FWPCA
Federal Water Pollution Control Act

FY
fiscal year

GAC
granular activated carbon

GOCO
Government-owned, contractor-operated

HAZMIN
hazardous waste minimization

HHI
health hazard inventory

HHS
Department of Health and Human Services

HMTC
Hazardous Materials Technical Center

HQ
headquarters

HQDA
Headquarters, Department of the Army

HRS
hazard ranking system

HSC
U.S. Army Health Services Command

HTM
hazardous and toxic materials

HWM
hazardous waste management

I/M
inspection and maintenance

IAG
interagency agreement

IC
installation commander

ICUZ
installation compatible use zone

IEC
international electrotechnical commission

IHW
installation hazardous waste

IHWM
installation hazardous waste manager

IMA
installation medical authority

OSC
installation on-scene coordinator

IR
installation restoration
interim report

IRA
interim remedial action

IRP
installation restoration program

IRT
installation response team

ISCP
installation spill contingency plan

LEPC
local emergency planning committee

LIN
line item number

LLA
lowest living area

LRRDAP
Army long range research development and
acquisition plan

LRS&T
long range science and technology

LTM
long-term measurement

MACOM
major Army command

MADS
mission area deficiency statements

MCA
Military Construction, Army

MCL
maximum contaminant level

MCL/MCLG
maximum contaminant level/maximum
contaminant level goal

MEDCEN
medical center

MEDCOM
medical command

MEDDAC
medical department activity

mg/l
milligrams per liter

MIL-STD
Military Standard

MILCON
military construction

MIPR
military interdepartmental purchase request

ml
milliliter

MM&T
manufacturing methods and technology

MPRSA
The Marine Protection, Research, and
Sanctuaries Act

MSDS
material safety data sheet

MWTA
Medical Waste Tracking Act

NAAQS
national ambient air quality standards

NCP
national contingency plan

NEPA
The National Environmental Policy Act

NESHAP
national emission standards for hazardous
air pollutants

NGB
National Guard Bureau

NGR
national guard regulation

NOV
notice of violation

NPDES
national pollutant discharge elimination
system

NPL
national priorities list

NPS
non-point source

NRC
national response center

NRT
national response team

NSN
national stock number

NSPS
new source performance standards

NTIS
National Technical Information Service

O&M
operations and maintenance

OASA
Office of the Assistant Secretary of the
Army

OB/OD
open burning or open detonation

OCE
Office of the Chief of Engineers

OCLL
Office of Congressional Legislative Liaison

OCONUS
outside the continental United States

OERR
office of emergency remedial response

OGC
office of the general counsel

OM&M
operations and maintenance and monitoring

OMA
operation and maintenance, Army

OMANG
Operations and Maintenance, Army Na-
tional Guard

OMB
Office of Management and Budget

OPA
Other Procurement, Army

ORD
office of research and development

OSC
on-scene coordinator

OSC/RPM
on-scene coordinator/remedial project
manager

OSD
Office of the Secretary of Defense

OSH
occupational safety and health

OSHA
The Occupational Safety and Health Act

OSWER
Office of Solid Waste and Emergency
Response

OTJAG
office of the Judge Advocate General

OTSG
office of the Surgeon General

PA
procurement appropriation; public affairs

PA/SI
preliminary assessment/site inspection

pam
pamphlet

PAO
public affairs office

PCB
polychlorinated biphenyl

pCi/l
picocuries per liter

PE
professional engineer

PECIP
productivity enhancing capital investment program

PEP
propellant, explosive, and pyrotechnic materials

PL
Public Law

PM
program manager

PM₁₀
particulate matter

POC
point of contact

POL
petroleum, oils, and lubricants

POM
program objective memorandum

POTW
publicly owned treatment works

PPBES
planning, programming, budgeting and execution system

PRP
potentially responsible party

PTA
packed tower aeration

PVNTMED
preventive medicine

QA/QC
quality assurance/quality control

QRIP
quick return on investment program

R&D
research and development

RA
remedial action

RCRA
The Resource Conservation and Recovery Act

RCS
requirements control symbol

RDA
research, development, and acquisition

RDTE
research, development, test, and evaluation

REC
record of environmental consideration

RI
remedial investigation

RI/FS
remedial investigation/feasibility study

RMA
Rocky Mountain Arsenal

ROC
required operational capability

ROD
record of decision

RPM
remedial project manager

RPMA
real property maintenance activities

RRC
regional response center

RRT
regional response team

SA
Secretary of the Army

SARA
Superfund Amendment and Reauthorization Act

SB
supply bulletin

SDPDA
special defense property disposal account

SDWA
The Safe Drinking Water Act

SECDEF
Secretary of Defense

SEL
sound exposure level

SIP
State implementation plan

SJA
staff judge advocate

SOFA
status of forces agreement

SOH
safety and occupational health

SOP
standing operating procedure

SPCC
spill prevention control and countermeasure

SPCCP
spill prevention control and countermeasure plan

SSA
staff support activity

SSHHP
site-specific safety and health plan

SWMU
solid waste management units

T&E
test and evaluation

TAG
The Adjutant General

TB
technical bulletin

TB MED
technical bulletin, medical

TDA
table of distribution and allowances

TFO
transaction for others

TG
technical guide

TJAG
The Judge Advocate General

TM
technical manual

TR
technical report

TRADOC
U.S. Army Training and Doctrine Command

TRC
technical review committee

TSCA
The Toxic Substances Control Act

TSDF
treatment, storage, and disposal facility

TSG
The Surgeon General

TU
turbidity unit

U.S.
United States

USACE
U.S. Army Corps of Engineers

USACERL
U.S. Army Construction Engineering Research Laboratory

USAEHA
U.S. Army Environmental Hygiene Agency

USAEHSC
U.S. Army Engineering and Housing Support Center

USAR
United States Army Reserve

USARJ
United States Army, Japan

USATHAMA
U.S. Army Toxic and Hazardous Materials Agency

USC
United States Code

USCG
U.S. Coast Guard

USE
used solvent elimination

USMA
U.S. Military Academy

P&FO
U.S. property and fiscal officer

UST
underground storage tank

UXO
unexploded ordnance

VOC
volatile organic compound

yr
Year

Section II Terms

A-weighted sound level
The A-scale sound level is a quantity, in decibels, read from sound level meter with A-weighting circuitry. The A-scale weighting discriminates against the lower frequencies according to a relationship approximating the auditory sensitivity of the human ear. The A-weighted sound level measures the approximate relative annoyance of many common sounds.

Activity
organization, or installation that performs a function or mission.

Advisory agencies
Departments or agencies that can make major contributions during response activities

for certain types of discharges. These agencies are as follows—

- Nuclear Regulatory Commission.
- Department of Interior.
- Department of Health and Human Services.
- Department of Justice.
- EPA.
- Federal Emergency Management Agency.
- Department of State.
- DOT.
- Department of Energy.

Ambient air quality standards
Those standards established according to the CAA to protect health and welfare.

Applicable water quality standards
The water quality standards—
a. Promulgated by EPA per the CWA, or
b. Adopted by a State and approved by EPA per section 303 of the CWA.

Best management practices (BMPs)
Methods, measures, or practices to prevent or reduce the contributions of pollutants to U.S. waters. BMPs may be imposed in addition to, or in the absence of, effluent limitations, standards, or prohibitions.

C-weighted sound level
The C-scale sound level is a quantity, in decibels, read from a sound level meter with C-weighting circuitry. The C-scale incorporates slight de-emphasis of the low and high frequency portion of the audible spectrum. The C-weighted sound level measures the additional annoyance caused by the low frequency vibration of structures.

Chemical warfare agent
A substance which, because of its chemical properties, is used in military operations to kill, seriously injure, or incapacitate humans or animals or deny use of indigenous resources.

Coastal waters
Coastal waters generally include the following—

- Those U.S. waters navigable by or established for Government-owned, pleasure, or commercial vessels.
- The contiguous zone (see glossary entry below).
- Other waters subject to tidal influences.

Contiguous zone
The entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone. This zone, contiguous to the territorial sea, extends 200 miles seaward from the baseline from which the territorial sea is measured.

DBA
Sound level in decibels, measured using the A-weighting network of a sound level meter.

Decibel (db)
A unit of measuring of sound pressure level.

Discharge
A term that includes, but is not limited to, the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a substance, into or on any land or water (40 CFR section 260.10).

Discharge classifications (for oil)
The classifications of accidental discharges listed below, provided to guide the OSC, are criteria for general response actions. They are not criteria for reporting, nor do they imply associated degrees of hazard to the public health or welfare, nor are they measures of environmental damage. However, a discharge that is a substantial threat to the public health or welfare, or results in critical public concern, will be classed as a major discharge. Discharges are quantitatively measured as follows—

- Minor discharge: A discharge to the inland waters of less than 1,000 gallons of oil, or a discharge of less than 10,000 gallons of oil to the coastal waters.
- Medium discharge: A discharge of 1,000 gallons to 10,000 gallons of oil to inland waters, or a discharge of 10,000 to 100,000 gallons of oil to coastal waters.
- Major discharge: A discharge of more than 10,000 gallons of oil to the inland waters, or more than 100,000 gallons of oil to the coastal waters.

Disposal
The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water. The act is such that the solid waste or hazardous waste, or any constituent thereof, may enter the environment or be emitted into the air or discharged into any waters, including ground water (40 CFR section 260.10).

Emission standards
Limits on the quality of emissions that may be discharged to the atmosphere from any regulated source, established by Federal, State, local, and host nation authorities.

Environment
Any one of the following—
a. Navigable waters.
b. Near-shore and open waters and any other surface water.
c. Groundwater.
d. Drinking water supply.
e. Land surface or subsurface area.
f. Ambient air.

Environmental audit
An environmental compliance review of facility operations, practices, and records to assess and verify compliance with Federal

State, and local environmental laws and regulations. These reviews are not audits as defined in DOD Directive 7600.2.

Environmental enhancement

Actions taken to improve the environment. These actions include, but are not limited to, measures intended to abate environmental pollution and to meet environmental quality standards.

Environmental noise

The outdoor noise environment consisting of the noise, including ambient noise, from all sources that extends beyond the workplace. The noise environment of the workplace is not considered environmental noise.

Environmental pollution

The condition resulting from the presence of chemical, mineral, radioactive, or biological substances that—

- a. Alter the natural environment.
- b. Adversely affect human health or the quality of life, biosystems, the environment, structures and equipment, recreational opportunities, aesthetics, and/or natural beauty.

Environmental pollution control standard

Any one of the Federal, State, and regional quality standards established to protect and enhance environmental quality per—

- a. CAA.
- b. CWA.
- c. CERCLA of 1980, as amended by the ARA of 1986.
- d. The Noise Control Act.
- e. RCRA.
- f. TSCA.
- g. Other Federal statutes.

Environmental pollution control standards of general applicability in the host country or jurisdiction

a. These standards are the substantive pollution control standards applicable, in effect, and uniformly enforced according to—

- (1) National pollution control laws of the host country, or,
- (2) Regulations issued by host government agencies to implement national laws.

b. This term does not include pollution control standards enacted or adopted by local governmental units or political subdivisions that are the national pollution control laws that the host nation implements.

Extremely hazardous substance

A substance included in appendix A or B of 40 CFR 355.

Facility

Facilities include buildings, structures, public works, equipment, aircraft, vessels, and other vehicles and property under control of, or constructed or manufactured for leasing to, the Army.

Federal

The U.S. Government; does not include the host nation government where the term federal is also applicable.

Federally permitted release

a. Federally permitted releases include—

(1) Discharges in compliance with permits issued under the FWPCA; the Marine Protection, Research, and Sanctuaries Act of 1972; or the RCRA, as amended.

(2) Injection of fluids for enhanced oil recovery as authorized under the applicable State laws.

(3) Introduction of any pollutant into publicly-owned treatment works when such pollutant is specified and in compliance with applicable CWA pretreatment standards.

(4) Release of source, special nuclear, or byproduct material in compliance with a legally enforceable license, permit, regulation, or order issued pursuant to the Atomic Energy Act of 1954.

b. See the national contingency plan for a more detailed definition.

Formerly used Defense sites

Those properties previously owned, leased, or otherwise possessed or used by DOD for military purposes; or those properties conveyed to a contractor for industrial purposes under an official permit (Government owned-contractor operated) and later legally disposed of.

Harmful discharge (of oil) into navigable waters or into or beyond the contiguous zone

As defined by 40 CFR 110, discharges of certain quantities of oil into or upon U.S. navigable waters or adjoining shorelines and into or upon the waters of the contiguous zone. Harmful discharges are such that they do at least one of the following—

- a. Violate applicable water quality standards.
- b. Cause a film or sheen upon, or discoloration of, the surface of the water or adjoining shoreline.
- c. Cause a deposit of sludge or emulsion beneath the surface of the water or upon adjoining shorelines.

Hazardous substance

A substance as defined by section 101(14) of CERCLA.

a. For the purpose of this regulation a hazardous substance is any one of the following—

(1) Any substance designated pursuant to section 311(b)(2)(A) of the CWA.

(2) Any element, compound, mixture, solution, or substance designated pursuant to section 102 of CERCLA.

(3) Any hazardous waste having the characteristics identified under the RCRA.

(4) Any toxic pollutant listed under TSCA.

(5) Any hazardous air pollutant listed under section 112 of the CAA.

(6) Any imminently hazardous chemical substance or mixture with respect to which the EPA Administrator has taken action pursuant to subsection 7 of TSCA.

b. The term does not include—

(1) Petroleum, including crude oil or any fraction thereof, which is not otherwise specifically listed or designated as a hazardous substance in a above.

(2) Natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures or natural gas and such synthetic gas).

c. A list of hazardous substances is found in 40 CFR 302.4.

Hazardous waste

A solid waste identified in 40 CFR section 261.3 or applicable foreign law, rule, or regulation (see also *solid waste*).

Hazardous waste disposal

As defined in 40 CFR section 260.10, *disposal* means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Hazardous waste generation

For reporting purposes, hazardous waste generation quantities are determined by an installation at that point where it is first defined as a regulated hazardous waste by

- a. The RCRA, or
- b. States with EPA-approved RCRA programs.

Hazardous waste generator

The hazardous waste generator is defined in 40 CFR section 260.10 as "any person, by site, whose act or process produces hazardous waste identified or listed in part 261 . . . or whose act first causes a hazardous waste to become subject to regulation." For reporting purposes in the Army, the IC is considered the *generator*.

Hazardous waste quantity

The quantity of hazardous waste. This may be reported in weight or volume units. If volume units are reported, the density (weight/unit volume) must also be reported. Actual volume, not merely container volume, must be reported. A dipstick to determine liquid depth may be used in connection with the table below for 55-gallon drums. The container of waste should be weighed and the scale weight reduced by 55 pounds to account for the weight of the container.

Inside drum diameter (inches)	Gallons/inch
22.5	1.72
25	2.12
26	2.30
27	2.48
28	2.66

29	2.86
30	3.06
31	3.27
32	3.48
33	3.70
34	3.93
35	4.16
36	4.28

Hazardous waste storage

As defined in 40 CFR section 260.10, "... the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere."

Hazardous waste treatment

As defined in 40 CFR section 260.10, "... Any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume."

Industrial installation

An installation that has the primary mission of producing, maintaining, or rehabilitating military material.

Inland waters

Those waters not subject to tidal influence.

Installation

A grouping of facilities, located in the same general vicinity, over which the IC has authority.

Installation compatibility use zone (ICUZ)

A land use planning procedure employed to control environmental noise.

Installation on-scene coordinator (IOSC)

The official who coordinates and directs Army control and cleanup efforts at the scene of an oil or hazardous substances discharge on or adjacent to any Army installation. The IOSC is predesignated by the Army installation commander.

Installation response team (IRT)

Those collective persons on an installation designated to act in an emergency to perform functions directed by the IOSC.

Integrated pest management

The management of actual and potential pest problems using a combination of available preventive and corrective control measures. The biological effectiveness, environmental acceptability, and cost effectiveness of the measures must be considered before such measures can be approved for use on Army-controlled property.

Linear peak sound level

The peak sound level, in decibels and with no frequency weighting, of an event, read from a sound level meter that has impulse measuring capabilities. The linear peak sound level measures the approximate relative annoyance of noise from small arms ranges.

Listed hazardous substance

a. A substance designated under any of the following—

(1) Sections 207(a) and 311(b)(2)(A) of CWA.

(2) Section 112 of CAA.

(3) Section 7 of TSCA.

b. Any hazardous waste listed under or having the hazardous waste characteristics identified according to section 3001 of the RCRA.

c. Any substance listed under section 102 of CERCLA.

Listed quantity

Reportable quantity under section 311 of the CWA, or one pound.

Low level radioactive waste

Radioactive waste not classified as high level radioactive waste, transuranic waste, or a byproduct material as defined in section 11e(2) of the Atomic Energy Act of 1954 (42 USC 2014 (e)(2)). See also radioactive material, below.

Mobile sources

Vehicles, aircraft, watercraft, construction equipment, and other equipment that use internal combustion engines for energy sources.

Monitoring

The assessment of emissions and ambient air quality conditions. The following monitoring techniques are used—

a. Emission estimates.

b. Visible emission readings.

c. Diffusion or dispersion estimates.

d. Sampling or measurement with analytical instruments.

Multiple container

Refuse container boxes normally 1 to 10 cubic yards in capacity used with all types of waste collection vehicles.

National Environmental Policy Act (NEPA)

U.S. statute that requires all Federal agencies to consider the potential effects of proposed actions on the human and natural environment.

National Response Center (NRC)

The Washington, DC, headquarters that coordinates activities relative to pollution emergencies. It is located at Headquarters, USCG.

National response team (NRT)

A team of representatives from the primary and advisory agencies that serves as the national policy-making body for—

a. Planning and preparedness actions to prevent and minimize accidental pollution discharges.

b. Coordination and provision of information and advice during a pollution emergency.

Navigable waters of the United States

These waters include—

a. All waters subject to the ebb and flow of the tide.

b. Interstate waters, including interstate wetlands.

c. All other waters such as intrastate lakes, impoundments, rivers, streams (including intermittent streams), tributaries, flats, sandflats, and wetlands.

Nontransportation-related onshore and offshore facilities

These facilities include but are not limited to—

a. Oil and hazardous substance storage facilities and related equipment and appurtenances.

b. Fixed bulk plant storage, terminal facilities, consumer storage, pumps, and drainage systems used in storage.

c. Waste treatment facilities including in-plant pipelines, effluent discharge lines, and storage tanks. Excluded are—

(1) Waste treatment facilities located on vessels.

(2) Terminal storage tanks and appurtenances for the reception of oily ballast water or tank washings from vessels and associated systems used for offloading vessels.

d. Loading racks, transfer hoses, loading arms, and other pieces of equipment that are—

(1) Appurtenant to a nontransportation-related facility or terminal facility.

(2) Used to transfer oil and hazardous substances in bulk to or from highway vehicles or railroad cars.

e. Highway vehicles and railroad cars that are—

(1) Used to transport oil and hazardous substances exclusively within the confines of a nontransportation-related facility.

(2) Not intended to transport interstate or intrastate commerce but, excluding pipeline systems, are used to transfer oil and hazardous substances in bulk to or from a vessel.

(3) Immobilized and used for storage or other activities related to oil and hazardous substances.

Offshore facility

Any kind of facility located in, on, or under any of the navigable waters of the United States, other than a vessel or public vessel.

Oil

Oil or petroleum products of any kind or in any form, and oil mixed with wastes other

than dredged spoil. The terms oil and POL are used interchangeably in this regulation.

On-scene coordinator (OSC)

a. The Federal official pre-designated by EPA or USCG to coordinate and direct Federal responses under subpart D, and removals under subpart E, of the national contingency plan; or,

b. The DOD or U.S. Department of Energy official designated to coordinate and direct the removal actions from releases of hazardous substances, pollutants, or contaminants where either the release is on, or the sole source of the release is from, any facility or vessel under the jurisdiction, custody, or control of their departments respectively; or,

c. The official designated by any other Federal department or agency to coordinate and direct removal actions other than emergencies where either the release is on, or the sole source of the release is from, any facility or vessel under the jurisdiction, custody, or control of those departments and agencies.

Onshore facility

Any facility located in, on, or under any land within the United States, other than submerged lands, that is not a transportation-related facility, or is a non-mobile transportation-related facility such as a trailer installed on concrete blocks.

Open burning

The combustion of any material without the characteristics below:

a. Control of combustion air to maintain adequate temperature for efficient combustion.

b. Containment of the combustion reaction in an enclosed device to provide enough residence time and mixing for complete combustion.

c. Control of emission of the gaseous combustion products.

Open dump

Any facility or site, where liquid or solid waste is disposed of, that is not a sanitary landfill that meets the criteria prescribed according to section 4004 of RCRA. It is not a facility for disposal of hazardous waste.

Personnel training

Training to meet the requirements of all applicable regulations. This training ensures a high level of competency in performing within a given job description.

Pollution

See environmental pollution.

Potential discharge

An incident or circumstances that threaten result in the discharge of oil or a hazardous substance.

Primary agencies

The Federal departments or agencies comprising the NRT: i.e., the Departments of

Commerce, Interior, Transportation, and Defense; and the EPA. These agencies have primary responsibility and resources to promote effective operation of the national oil and hazardous substances pollution contingency plan.

Public health or welfare

All or any factors affecting human health and welfare.

Public vessel

A vessel owned, chartered, and operated by—

a. The United States or by a State or political subdivision thereof, or,

b. A foreign nation. When such a vessel is engaged in commerce, it is not considered a public vessel.

Qualifying recycling program

An organized operation that requires concerted efforts to—

a. Divert or recover scrap or waste from waste streams.

b. Identify, segregate, and maintain the integrity of the recyclable materials to maintain or enhance the marketability of the materials.

Radioactive material

Any material or combination of materials that spontaneously emits ionizing radiation.

Reclamation

Regeneration of a material, or processing of a material to recover a usable product. Examples include recovery of lead from spent batteries, or the regeneration of spent solvents.

Recycling

A material is recycled if it is used, reused, or reclaimed. A distinction exists between on-site recycling (that is, where a waste is discharged from a process, but not from the installation, for recycling) and off-site recycling (that is, where the waste is transported from the generating activity to an off-site recycler).

Regional administrator

The regional administrator of the EPA regional office in which the subject property is located.

Regional response center (RRC)

The Federal regional site that controls pollution emergency response activities. It provides communications, information, storage, personnel, and facilities needed to promote the proper functioning and administration of regional pollution emergency response operations.

Regional response team (RRT)

A team of regional Federal representatives of the primary or selected advisory agencies. It acts within its region as an emergency response team that performs functions like those of the NRT.

Release

A discharge of one or more hazardous substances into the environment by any means. Excluded are—

a. Minor releases within the workplace.

b. Emissions from engine exhaust.

c. Normal applications of fertilizer.

Reportable spill or event

A release of a listed quantity of oil or hazardous substance into the environment.

a. For oil (defined by 40 CFR 110): A discharge of such quantities of oil into or upon the navigable waters of the United States, its adjoining shorelines, or the contiguous zone so as to meet the qualifications listed in *harmful discharge (of oil) into navigable waters or into or beyond the contiguous zone above*.

b. For hazardous substances: Any release of one or more reportable substances in reportable quantities into the environment, requiring—

(1) The EPA NRC to be notified immediately.

(2) All other reporting as required by paragraph 8-3.

Reuse

A material is used or reused if it is either—

a. Used as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as a feed-stock in another process).

b. Used in a particular function or application as an effective substitute (for example, spent battery acid accumulated by the DRMO could be used in industrial wastewater treatment facilities to precipitate phosphorous, and act as a sludge conditioner).

Sheen

An iridescent appearance on the surface of water.

Sludge

Any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant." (40 CFR 260.10)

Solid waste

Any discarded material that is not excluded by section 261.4(a) or that is not excluded by variance granted under sections 260.30 and 260.31." (40 CFR 261.2)

Source reduction

Any activity that reduces or eliminates the generation of a hazardous waste within a process (for example, closed-loop or in-process recycling would be considered a method of source reduction).

Spill

A generic term, as used in this regulation, which encompasses the accidental

deliberate but unpermitted, discharge or release of a pollutant. For distinction, see *discharge classifications, harmful discharge*, *potential discharge, release, and releasable spill or event*. For comparison, see *discharge and federally permitted release*.

State implementation plans (SIPs)

Plans developed to designate the methods to attain and maintain ambient air quality standards.

Status of forces agreements (SOFAs)

Agreements on the stationing or operations of forces to which the United States is a party, such as—

a. Multilateral or bilateral stationing or base rights agreement.

b. Arrangements or understanding concluded thereunder.

Total quality management of hazardous material

Integrating actions to minimize the adverse effects of hazardous material into Army operations in all functional areas at all levels.

Toxic pollutant

Those pollutants or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism—either directly from the environment or indirectly by ingestion through food chains—will cause death; disease; behavioral abnormalities; cancer; genetic mutations; physiological malfunctions, including malfunctions in reproduction; or physical deformations in such organisms or their offspring.

Ultimate disposition

This term includes recycling or reuse, and storage, treatment, and disposal per applicable regulations.

Underground injection

The subsurface emplacement of fluids through—

a. A bored, drilled, or driven well, or

b. A dug well where the depth of the dug well is greater than the largest surface dimension.

U.S. jurisdiction

The 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction.

Vessel

Any type of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, other than a public vessel.

Waste minimization

a. Any source reduction or recycling activity that is undertaken by a generator that results in (1) the reduction of the quantity

of hazardous waste, or (2) the reduction in toxicity of hazardous waste, that is either generated or subsequently treated, stored, or disposed of. Such activities must be consistent with the goals of minimizing present and future threats to human health and the environment.

b. A working definition of waste minimization reflects two types of activities, source reduction and recycling.

(1) Source reduction refers to the reduction or elimination of waste at the point of generation (for example, within a process).

(2) Recycling refers to—

(a) The use or reuse of a waste stream by-product as an effective substitute for a commercial product or as an ingredient or feed-stock in a process.

(b) The reclamation of a waste material which involves recovery of whatever constituent fractions can be reused. Agents, chemical warfare,

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200

DALLAS, TEXAS 75202-2733

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SEP 11 1990

12 Sep 90
Jeffrey W. Russell
Lieutenant Colonel, U.S. Army
Commanding Officer
Department of the Army
Longhorn Army Ammunition Plant
Marshall, Texas 75670-1059

Dear Colonel Russell:

Thank you for your letter of August 28, 1990, concerning the need for an interagency agreement between the U.S. Environmental Protection Agency and the Department of the Army for the Longhorn Army Ammunition Plant in Marshall, Texas.

Longhorn Army Ammunition Plant was promulgated on the National Priorities List on August 29, 1990. We agree with you that an interagency agreement should be in effect as soon as possible. In this respect, Lisa Marie Price of my staff has been in contact with Mr. Lynn Muckelrath at your facility, and October 16, 1990, has been tentatively scheduled as the date to meet to discuss the interagency agreement. One of the major items we would like to discuss at this meeting is a schedule which all parties can commit to for the signature of a Federal Facility Agreement.

If you have any further questions, please contact Lisa Marie Price at (214) 655-6735.

Sincerely,

Allyn M Davis

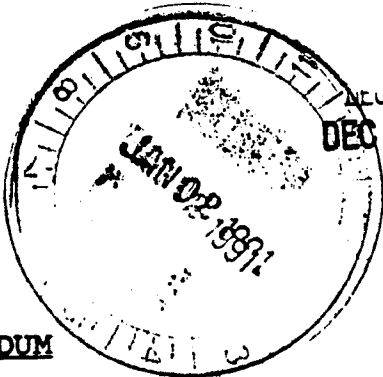
Allyn M. Davis
Director
Hazardous Waste Management Division

cc: Dan Eden
Texas Water Commission

004221



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



OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE
OSWER Directive # 9833.3A-1

MEMORANDUM

SUBJECT: Final Guidance on Administrative Records for Selecting CERCLA Response Actions

FROM: Don R. Clay *DRC*
Assistant Administrator

TO: Regional Administrators, Regions I-X

This memorandum transmits to you our "Final Guidance on Administrative Records for Selecting CERCLA Response Actions." This document replaces the "Interim Guidance on Administrative Records for Selection of CERCLA Response Actions," previously issued on March 1, 1989.

The guidance sets forth the policy and procedures governing the compilation and establishment of administrative records for selecting response actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). This guidance is also consistent with and expands on Subpart I of the National Oil and Hazardous Substances Pollution Contingency Plan, 55 Fed. Reg. 8859 (March 8, 1990).

This guidance reflects input received from the Regions, Headquarters and the Department of Justice. There have been several drafts of this guidance and comments have been incorporated. I thank you for your assistance.

Attachment

cc: Director, Waste Management Division,
Regions I, IV, V, and VII
Director, Emergency and Remedial Response Division,
Region II
Director, Hazardous Waste Management Division,
Regions III, VI, VIII, and IX
Director, Hazardous Waste Division, Region X
Director, Environmental Services Division,
Regions I, VI, and VII
Regional Counsel, Regions I-X
Administrative Record Coordinators, Regions I-X

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OSWER Directive No. 9833.3A-1

**FINAL GUIDANCE ON ADMINISTRATIVE RECORDS
FOR
SELECTING CERCLA RESPONSE ACTIONS**

**U.S. Environmental Protection Agency
Office of Solid Waste and Emergency Response
Washington, D.C. 20460**

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OSWER Directive No. 9833.3A-1

I. INTRODUCTION

A. Purpose and Scope of the Administrative Record

This guidance addresses the establishment of administrative records under Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA).¹ Section 113(k)(1) of CERCLA requires the establishment of administrative records upon which the President shall base the selection of a response action (see Appendix A for the complete statutory language).

Chapter I of this guidance introduces the purpose and scope of the administrative record. Chapter II reviews procedures for compiling and maintaining the administrative record. Chapter III examines the various types of documents which should be included in the administrative record. Chapter IV discusses how agencies outside EPA are involved in establishing the record. Finally, this guidance includes a glossary of frequently used terms and acronyms as well as several appendices.

Although this guidance is written for use by the United States Environmental Protection Agency (EPA), it can be adapted for use by state and federal agencies required to establish administrative records for the selection of CERCLA response actions. As used in this guidance the term "lead agency" means either EPA, a state or other federal agency, which is responsible for compiling and maintaining the administrative record. As used in this guidance, the term "support agency" means the agency or agencies which furnish necessary data to the lead agency, reviews response data and documents and provides other assistance as requested by the OSC or RPM. This guidance reflects the revisions to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) published on March 8, 1990, 55 Fed. Reg. 8859 (see Appendices L and M).

The administrative record established under Section 113(k) of CERCLA serves two primary purposes. First, the record contains those documents which form the basis for selection of a response action and under Section 113(j), judicial review of any issue concerning the adequacy of any response action is limited to the record. Second, Section 113(k) requires that the administrative record act as a vehicle for public participation

¹ 42 U.S.C. §9613. References made to CERCLA throughout this memorandum should be interpreted as meaning "CERCLA, as amended by SARA."

in selecting a response action. This guidance document discusses procedures developed to ensure that the lead agency's administrative records meet these twin purposes.

The administrative record is the body of documents that "forms the basis" for the selection of a particular response at a site. This does not mean that documents which only support a response decision are placed in the administrative record. Documents which are included are relevant documents that were relied upon in selecting the response action, as well as relevant documents that were considered but ultimately rejected (e.g., documents "considered or relied on").

This document uses the phrase "considered or relied on" in discussing which documents should be included in the administrative record to indicate that it is EPA's general policy to be inclusive for placing documents in the administrative record. However, this term does not mean that drafts or internal documents are normally included in the administrative record. Lead or support agency draft or internal memoranda are generally not included in the administrative record, except in specific circumstances (see section III.G. at page 33). Thus, the record will include final documents generated by the lead and support agency, as well as technical and site-specific information. Information or comments submitted by the public or potentially responsible parties (PRPs) during a public comment period (even if the lead agency does not agree with the information or comments) are also included in the administrative record (see section III.D. at page 30).

The following principles should be applied in establishing administrative records:

- o The record should be compiled as documents relating to the selection of the response action are generated or received by the lead agency;
- o The record should include documents that form the basis for the decision, whether or not they support the response selection; and
- o The record should be a contemporaneous explanation of the basis for the selection of a response action.

The effort to establish adequate administrative records encompasses a vast array of people including: Administrative Record Coordinators, Remedial Project Managers (RPMs), On-Scene Coordinators (OSCs), enforcement staff, records management staff, Regional Counsel staff, Community Relations Coordinators (CRCs), other federal agencies, states, CERCLA contractors, and the

public.² This guidance will discuss the roles and responsibilities of these people and how they interact with one another.

B. Judicial Review

Section 113(j)(1) of CERCLA provides that judicial review of any issues concerning the adequacy of any response action shall be limited to the administrative record.

Judicial review based on an administrative record provides numerous benefits. Under Section 113(j) of CERCLA and general principles of administrative law, when the trial court reviews the response action selected, the court is limited to reviewing the documents in the administrative record. As a result, facts or arguments related to the response action that challenging parties present for the first time in court will not be considered.

Record review saves time by limiting the scope of trials, thereby saving the lead agency's resources for cleanup rather than litigation. Courts will not allow a party challenging a decision to use discovery, hearings, or additional fact finding to look beyond the lead agency's administrative record, except in very limited circumstances. In particular, courts generally will not permit persons challenging a response decision to depose, examine, or cross-examine EPA, state or other federal agency decisionmakers, staff, or contractors concerning the selection of the response action.

Furthermore, the administrative record may be cited long after officials responsible for the response decisions have moved into different positions or have left the lead or support agency. Judicial review limited to the record saves time involved in locating former employees who may not remember the facts and circumstances underlying decisions made at a much earlier time.

Moreover, in ruling on challenges to the response action decision, the court will apply the highly deferential "arbitrary and capricious" standard of review set forth in Section 113(j)(2) of CERCLA. Under this standard, a court does not substitute its judgment for that of the decisionmaker. The reviewing court does not act as an independent decisionmaker, but rather acts as a reviewing body whose limited task is to check for arbitrary and capricious action. Thus, the court will only overturn the response selection decision if it can be shown on the

² As used hereinafter in this guidance the term "public" includes potentially responsible parties (PRPs).

administrative record, that the decision was arbitrary and capricious or otherwise not in accordance with the law. However, the extent to which EPA benefits from having judicial review limited to the record depends on the quality and completeness of each record.

C. Public Participation

Section 113(k)(2) of CERCLA requires that the public have the opportunity to participate in developing the administrative record for response selection. Section 117 of CERCLA also includes provisions for public participation in the remedial action selection process.³ Both sections reflect a statutory emphasis on public participation. Participation by interested persons will ensure that the lead agency has considered the concerns of the public, including PRPs, during the response selection process. In addition, for purposes of administrative and judicial review, the record will contain documents that reflect the participation of the public and the lead agency's consideration of the public's concerns.

If the lead agency does not provide an opportunity for involvement of interested parties in the development of the administrative record, persons challenging a response action may argue that judicial review should not be limited to the record. The lead agency must, therefore, make the information considered or relied on in selecting a response action available to the public, provide an appropriate opportunity for public comment on this information, place comments and information received from the public in the record, and reflect in the record the lead agency's consideration of this information.

II. PROCEDURES FOR ESTABLISHING THE ADMINISTRATIVE RECORD

A. Administrative Record Coordinator

Each region should have an Administrative Record Coordinator. The Record Coordinator generally has the duty of ensuring that the administrative record files are compiled and maintained according to Subpart I of the NCP and this guidance.⁴

³ 42 U.S.C. §9617.

⁴ The "administrative record file" should be distinguished from the "administrative record." The administrative record file refers to the documents as they are being compiled. Until a response action decision has been 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

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The Record Coordinator will not be responsible for deciding which documents are included in a record file. Those decisions should be made by the OSC or RPM, with appropriate consultation of ORC staff. The Record Coordinator's duties ordinarily include:

- o Developing procedures for creating record files;
- o Ensuring that the public is notified that the record files are available for inspection;
- o Ensuring that the records are available at or near the site;
- o Ensuring that the records are available at the regional office or other central location;
- o Coordinating efforts to obtain the necessary documents;
- o Indexing the record files;
- o Updating the record files and indices on a regular basis (e.g., quarterly);
- o Ensuring availability of the record file for copying;
- o Ensuring that sampling and testing data, quality control and quality assurance documentation, and chain of custody forms are available for public inspection, possibly at a location other than that of the record files;
- o Coordinating with ORC staff on questions of relevance and confidentiality of documents submitted for the record files;
- o Arranging for production and presentation of the record to court when necessary for judicial review;
- o Maintaining the confidential portion of the record files, if necessary;
- o Maintaining the "Compendium of CERCLA Response Selection Guidance Documents";
- o Coordinating with states and federal agencies on record files compiled by them; and

the final selection decision, the set of documents is referred to as the administrative record file rather than the administrative record.

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- o Notifying appropriate personnel of the timing for review of state and federal record files.

Appendix D contains a model position description for an Administrative Record Coordinator.

The Record Coordinator must work closely with RPMs, OSCs, enforcement staff, records management staff, Regional Counsel staff, community relations staff, and the Department of Justice (DOJ) (for cases in litigation).

If the way the record was compiled and maintained is questioned in litigation, the Record Coordinator may be called upon to prepare an affidavit or testify about those procedures. Therefore, the Record Coordinator should be familiar with the procedures associated with the record, and be qualified to fulfill the responsibilities outlined above.

B. Multiple Response Actions

In general, every decision document (e.g., Record of Decision (ROD) or Action Memorandum) must be supported by an administrative record. Under CERCLA, cleanups are often broken up into distinct response actions. At a given site this may include several removal actions, and/or remedial actions known as operable units. For every removal action or operable unit, a separate administrative record must be compiled.

Information relevant to more than one response decision, such as a site inspection report or a preliminary assessment report may be placed in the record file for an initial response action and incorporated by reference in the indexes of subsequent record files for that site.

C. Compilation

The administrative record file should be compiled as relevant documents on the response action are generated or received. Thus, all documents which are clearly relevant and non-privileged should be placed in the record file, entered into the index, and made available to the public as soon as possible. For example, the remedial investigation/feasibility study (RI/FS) work plan, summaries of quality assured data, the RI/FS released for public comment, the proposed plan, and any public comments received on the RI/FS and proposed plan should be placed in the record file as soon as they are generated or received.

When there are questions whether particular documents should be included in the record file, such documents can be segregated and reviewed at regular intervals (e.g., quarterly). For

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example, draft documents or documents subject to claims of privilege should be set aside for review by ORC and other appropriate staff. At critical times, such as prior to the public comment period, the issues regarding these documents should be completely resolved and the documents included in the record file, if appropriate.

The record file should be updated while it is available for public inspection. The additional documents should be placed in the record file and entered in the index. Any updates to the record file should be made to all copies of the record file.

All documents considered or relied on in selecting the response action should be in the record file when a decision document (e.g., a record of decision) is signed. Documents relevant to the response selection but generated or received after the decision document is signed should be placed in a post-decision document file and may be added to the administrative record file in certain circumstances (see section III.N. at page 40).

D. Index

Each administrative record file must be indexed. The index plays a key role in enabling both lead agency staff and members of the public to help locate and retrieve documents included in the record file. In addition, the index can be used for public information purposes or identifying documents located elsewhere, such as those included in the compendium of guidance documents (see Appendix E). The index also serves as an overview of the history of the response action at the site.

The index also provides the lead agency with a degree of control over documents located at or near the site. The creation of an index will prevent persons from altering the record simply by physically adding or removing documents from the record file.

The index should include the following information for each document:

- o Document Number;
- o Document Date - date on the document;
- o Document Title - one or two line identification. Identify the actual document, not a transmittal memo or other less relevant document. Include sufficient information so the document cannot be confused with another (e.g., the title "report" may be insufficient);

- o Author - Name and affiliation;
- o Recipient - Name and affiliation; and
- o Document Location.

The index can be organized either by subject or in chronological order. If documents are customarily grouped together, as with sampling data and chain of custody documents, they may be listed as a group in the index to the administrative record file. Appendix C contains a model index organized by subject. Computer databases have been helpful in generating and updating the index.

The index should be updated when the record file is updated. It is preferable to update the record file when documents are received, or at least quarterly. Such updates should coincide with the periodic updating of the record file and review of material for which there are questions about relevance or privilege (see section II.C. at page 6). The index should also be updated before any public comment period commences. The index should be labeled "draft index" until all relevant documents are placed in the record file. When the decision document is signed, the draft index should be updated and labeled "index."

E. Location

E.1. General

Section 113(k)(1) of CERCLA requires that the administrative record be available to the public "at or near the facility at issue."⁵ Duplicates of the record file may be kept at any other location. A copy of the record file must be located at the regional office or other central location. Both copies of the record file should be available for public inspection at reasonable times (e.g., 9-4, Monday-Friday). In the case of an emergency removal, unless requested, the record file needs to be available for public inspection only at the central location (see section II.F.3. at page 14).⁶

The record file located at or near the site should be placed in one of the information repositories which may already exist for community relations purposes. These are typically located in a library, town hall, or other publicly accessible place. If there is no existing information repository, or if the repository

⁵ See 40 C.F.R. §300.805.

⁶ 40 C.F.R. §§300.805(a)(5) and (b).

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does not have sufficient space for the record file, any other publicly accessible place may be chosen to house the record file.⁷ When a Superfund site is located at or near an Indian reservation, the centrally located copy of the record file may be located at the Indian tribal headquarters. The Community Relations Coordinator (CRC) should be consulted on the location of the information repository and record file.

The record file should be transmitted to the local repository in coordination with the CRC. The CRC should make the initial contact to establish the local repository and request housing for the record file. The Record Coordinator should make arrangements for delivering the record file to the local repository.

The record file should include an introductory cover letter addressed to the librarian or repository manager (see Appendix F). In addition, a transmittal acknowledgement form should be included to ensure receipt of the record file (see Appendix G). Finally, an administrative record fact sheet should accompany the record to answer questions from the public (see Appendix H). Updates to the record file should be handled in a similar fashion (see section II.C. at page 6).

In addition to the publicly available record file, if feasible, a master copy of the record file should be kept at the regional office or other central location of the lead agency. To preserve the integrity of the master copy of the record file, it should not be accessible to the public. If not feasible to establish a master copy, the lead agency will need to establish an effective security system for the publicly available record file. The master copy of the record file may be maintained in microform to conserve storage space (see section II.J. at page 21).

E.2. Special Documents

Certain documents which are included in the record file do not have to be maintained at or near the site or, in some cases, at the regional office or other central location, because of the nature of the documents and the burden associated with maintaining such documents in multiple locations. These documents, however, must be incorporated in the record file by reference (e.g., in the index but not physically in the record

⁷ If the site is located at a federal facility which requires security clearance, the administrative record file for that site must be located where security clearance is not required. The public must have free access to the record file.

file), and the index must indicate where the documents are publicly accessible. Where a document is listed in the index but not located at or near the site, the lead agency must, upon request, include the document in the record file at or near the site.⁸ This applies to verified sampling data, chain of custody forms, and guidance and policy documents. It does not apply to documents in the confidential file.

Unless requested, the following types of documents do not have to be located in multiple locations:

Verified Sampling Data⁹

Verified sampling data do not have to be located in either administrative record file. The sampling data may be left in its original storage location (e.g., Environmental Services Division (ESD) or contract laboratory). Data summary sheets, however, must be located in the record file. The index must list the data summary sheets, reference the underlying verified sampling data, and indicate where the sampling data can be found.

Chain of Custody Forms¹⁰

As with verified sampling data, chain of custody forms do not have to be located in either administrative record file. The chain of custody forms may be left in the original storage location. The index must reference the chain of custody forms and indicate their location.

⁸ 40 C.F.R. §300.805(b).

⁹ 40 C.F.R. §300.805(a)(1). "Verified sampling data" are data that have undergone the quality assurance and quality control process. "Invalidated sampling data" have been incorrectly gathered or analyzed and will not be part of the record file. "Unvalidated sampling data" are data which has not yet undergone the quality assurance and quality control process. Because it is superseded by verified data, the unvalidated data are not generally part of the record files. However, such data may in some cases be relied on in selecting a response action, such as an emergency removal where there is no time for verification. Unvalidated sampling data which are relied on in selecting a response action should be included in the record file.

¹⁰ 40 C.F.R. §300.805(a)(1).

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Confidential and Privileged Documents¹¹

When a confidential or privileged document is included in the record file, it should be kept in a confidential portion of the record file. The confidential file should be kept in a locked cabinet at the regional office or other central location. It should not be located at or near the site. The index should identify the title and location of the document, and describe why the lead agency considers it confidential or privileged. Furthermore, the lead agency should summarize or redact the document to make available, to the extent feasible, factual information (especially if such information is not found elsewhere in the record file and is not otherwise available to the public). This summary or redaction should be performed as soon as possible after the determination that a document is privileged or confidential, and inserted in the portion of the record file available to the public and included in the index. See also section III.H. at page 34.

Guidance and Policy Documents¹²

Guidance and policy documents that are not site specific are available in a compendium located in the regional office. ("Compendium of CERCLA Response Selection Guidance Documents," Office of Waste Programs Enforcement, May 1989.) This eliminates the need for reproducing copies of frequently used documents for each site record file. The documents in the compendium need not be physically included in the record file, but the guidance and policy documents considered or relied on in selecting the response action must be listed in the record file index along with their location and availability. See also section III.I. at page 37 and Appendix E.

Technical Literature¹³

Publicly available technical literature that was not generated for the site at issue (e.g., an engineering textbook), does not have to be located in the regional office or other central location or at or near the site. The document must be clearly referenced in the index. However, technical literature not publicly available must be physically included in the record file at the regional office or other central location and at or near the site. See also section III.J. at page 38.

¹¹ 40 C.F.R. §300.805(a)(4).

¹² 40 C.F.R. §300.805(a)(2).

¹³ 40 C.F.R. §300.805(a)(3).

F. Public Availability

F.1. General

Section 113(k) of CERCLA specifies that the administrative record "shall be available to the public." In satisfying this provision, the lead agency must comply with all relevant public participation procedures outlined in Sections 113(k) and 117 of CERCLA. The NCP (see Appendices L and M) contains additional requirements on public availability (see also "Community Relations in Superfund: A Handbook," October 1988 - OSWER Directive No. 9230.0-3A; "Community Relations During Enforcement Activities," November 3, 1988 - OSWER Directive No. 9836.0-1A).

The availability of the record file will vary depending upon the nature of the response action. Different procedures are outlined below for remedial and removal response actions.

In all cases, the lead agency should publish a notice of availability of the record file when the record file is first made available for public inspection in the vicinity of the site at issue.¹⁴ The notice should explain the purpose of the record file, its location and availability, and how the public may participate in its development.

The notice should be published in a major local newspaper of general circulation. The newspaper notices should be distributed to persons on the community relations mailing list. These notices should also be sent to all known PRPs if they are not already included on the community relations mailing list. As PRPs are discovered, the lead agency should add their names to the community relations mailing list and mail them all the notices sent to the other PRPs. Publication of the notice should be coordinated with the community relations staff. A copy of the notice of availability and list of recipients should be included in the record file. Appendix I contains a model notice of availability.

This public notice may be combined with other notices for the same site, such as a notice of availability of the community relations information repository, if they occur at the same time. In addition to the required newspaper notice, the public can be informed of the availability of the record file through existing mechanisms (e.g., general and special notice letters, Section 104(e) information requests, and the community relations mailing list). In addition, Headquarters will publish notices in the

¹⁴ See 40 C.F.R. §300.815(a) and §§300.820(a)(1) and (b).

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Federal Register. They will be published quarterly and will list sites where remedial activity is planned.

F.2. Remedial Actions

The administrative record file for a remedial action must be available for public inspection when the remedial investigation begins.¹⁵ For example, when the remedial investigation/feasibility study (RI/FS) work plan is approved, the lead agency must place documents relevant to the selection of the remedy generated up to that point in the record file. Documents generally available at that time include the preliminary assessment (PA), the site investigation (SI), the RI work plan, inspection reports, sampling data, and the community relations plan. The lead agency must continue to add documents to the record file periodically after they are generated or received during the RI/FS process.

The record file must be publicly available both at a regional office or other central location and at or near the site (see section II.E. at page 8).¹⁶ In addition, the notice of availability should be sent to persons on the community relations mailing list, including all known PRPs.

With the completion of the RI/FS, the lead agency should undertake the following public participation procedures:

- o Prepare a proposed plan which briefly analyzes the remedial alternatives evaluated in the detailed analysis of the RI/FS and proposes a preferred remedial action alternative;
- o Make the RI/FS report and proposed plan available in the record files both at a regional office or other central location and at or near the site;
- o Publish in a major local newspaper of general circulation a notice of availability and brief analysis of the RI/FS report and proposed plan. The notice should include the dates for submission of public comments;
- o Mail the notice or copy of the notice to all PRPs on the community relations mailing list;
- o Provide a formal comment period of not less than 30 calendar days for submission of comments on the proposed plan. Upon

¹⁵ 40 C.F.R. §300.815(a).

¹⁶ 40 C.F.R. §300.805(a).

timely request the lead agency will extend the public comment period by a minimum of 30 additional days.¹⁷ [Note: The lead agency is encouraged to consider and respond to significant comments that were submitted before the public comment period. Considering early comments provides practical benefits both substantively and procedurally. Early comments may provide important information for the selection decision, and early consideration provides the public (and, particularly, PRPs) with additional informal opportunities for participating in the decisionmaking process.];

- o Provide the opportunity for a public meeting(s) in the affected area during the public comment period on the RI/FS and proposed plan;
- o Keep a transcript of the public meeting(s) on the RI/FS and proposed plan held during the comment period and include a copy of the transcript in the record file;
- o Prepare a discussion (to accompany or be part of the decision document) of any significant changes to the proposed plan which occurred after the proposed plan was made available for public comment which are reflected in the ROD;
- o Prepare a response to each of the significant comments submitted during the public comment period to accompany the ROD (see section III.D. at page 30); and
- o Publish in a major local newspaper of general circulation a notice of the availability of the ROD and make the ROD available to the public before beginning any remedial action, as required under Section 117(b) of CERCLA.

Comments received after signing the ROD should be placed in a post-decision document file and may be added to the record file in certain situations (see section III.N. at page 40).

F.3. Removal Actions

Section 113(k)(2)(A) of CERCLA requires that the EPA establish procedures for the appropriate participation of interested persons in the development of the administrative record for the selection of a removal action. "Appropriate" participation depends on the nature of the removal, as outlined below.

¹⁷ 40 C.F.R. §300.430(f)(3)(i)(c).

Time-critical Removal Actions

A time-critical removal action is a removal action for which, based on the site evaluation, the lead agency determines that a period of less than six months exists before on-site removal activities must be initiated. This category includes emergency removal actions which are described in greater detail below.

The administrative record file for these actions must be available for public inspection no later than 60 days after the initiation of on-site removal activity. Where possible, the record file should be made available earlier. The record file must be available both at the regional office or other central location and at or near the site at issue.

If, however, on-site cleanup activity is initiated within hours of the verification of a release or threat of a release and on-site cleanup activities cease within 30 days (emergency actions), the record file need only be available at the regional office or other central location, unless it is requested that a copy of the record file be placed at or near the site.¹⁸

For all time-critical removals, a notice of the availability of the record file must be published in a major local newspaper and a copy of the notice included in the record file. This notice should be published no later than 60 days after initiation of on-site removal activity.¹⁹

A public comment period of not less than 30 days should be held in appropriate situations.²⁰ 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. If a public comment period is considered appropriate, it should begin at the time the record file is made available for public inspection. Note, however, that even if an action is completed before the record file is available, the record file should be made available to the public. The notice for the public comment period may be combined with the notice of availability of the record file if they occur at the same time. The notice should be mailed to all PRPs on the community

¹⁸ 40 C.F.R. §300.805(b).

¹⁹ 40 C.F.R. §300.415(m)(2)(i).

²⁰ 40 C.F.R. §300.415(m)(2)(ii).

relations mailing list. The notice should also be sent to all known PRPs if they are not already on the community relations mailing list.

The lead agency must respond to all significant comments received during the public comment period and place the comments and the responses to them in the record file (see section III.D. at page 30).²¹ Whether or not the lead agency holds a public comment period, comments received by the lead agency before the decision document is signed and related to the selection of the removal action must be placed in the record file. For information, including comments, generated or received after the decision document is signed, see section III.N. at page 40.

Non-Time-Critical Removal Actions

A non-time-critical removal action is a removal action for which, based on the site evaluation, the lead agency determines that a planning period of at least six months exists before on-site removal activities must be initiated.

The administrative record file for a non-time-critical removal action must be made available for public inspection when the engineering evaluation/cost analysis (EE/CA) is made available for public comment.²² The record file must be available at the regional office or other central location and at or near the site. A notice of the availability of the record file must be published in a major local newspaper and a copy of the notice included in the record file. The notice should be published in a major local newspaper of general circulation. In addition, Headquarters will publish these notices in the Federal Register. They will be published quarterly and will list sites where non-time critical removal activity is planned. The newspaper notice should be distributed to persons on the community relations mailing list and placed in the record file. These notices should also be sent to all known PRPs if they are not already on the community relations mailing list. As PRPs are discovered, the lead agency should add their names to the community relations mailing list and mail them all the notices sent to the other PRPs. Publication of the notice should be coordinated with the community relations staff. A copy of the notice of availability should be included in the record file. Appendix I contains a model notice of availability.

²¹ 40 C.F.R. §300.415(m)(2)(iii).

²² 40 C.F.R. §300.415(m)(4).

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A public comment period on the EE/CA of not less than 30 days must be held so that interested persons may submit comments on the response selection for the record file. Upon timely notice, the lead agency will extend the public comment period by a minimum of 15 days.²³ A notice of the public comment period may be combined with the notice of availability of the record file if they occur at the same time. The lead agency must respond to all significant comments received during the public comment period and place the comments and the responses to them in the record file (see section III.D. at page 30).²⁴

The lead agency is encouraged to consider and respond to significant comments that were submitted before the public comment period. Considering early comments provides practical benefits both substantively and procedurally. Early comments may provide important information for the selection decision, and early consideration provides the public (and, particularly, PRPs) with additional informal opportunities for participating in the decision making process.

Comments generated or received after the decision document is signed should be kept in a post-decision document file. They may be added to the record file in certain situations (see section III.N. at page 40).

G. Maintaining the Record

Document room procedures should be established to ensure orderly public access to the record files. In establishing public access procedures, the security and integrity of the record files must be maintained at all times.

Each regional office or other central location should have a reading area where visitors are able to review the record files. The record file must be available during reasonable hours (e.g., 9-4, Monday-Friday). The public reading area should include, wherever feasible:

- o Administrative record files;
- o Guidance Compendium (see section III.I. at page 37);
- o Access to a copier; and
- o Sign-in book.

²³ 40 C.F.R. §300.415(m)(4)(iii).

²⁴ 40 C.F.R. §300.415(m)(4)(iv).

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Controlled access to the files is accomplished by use of a visitor sign-in book. Sign-in books help minimize instances in which documents are lost or damaged. They also provide documentation of the lead agency's efforts to provide public access to the record files. Pertinent information recorded in the book should include:

- o Date of visit;
- o Name;
- o Affiliation;
- o Address;
- o Phone number;
- o Site documents viewed; and
- o Cost of copied materials (if applicable).

The lead agency may choose not to use sign-in books if the books deter the public from reviewing the record files.

Since documents in the record file should be complete, properly organized and legible, the integrity of the record file must be maintained. If possible, storage and reading areas should be supervised to maintain proper security. Documents should not leave the document room or be left unattended. To the extent feasible, the Administrative Record Coordinator should check the order of the documents after being viewed by the public to be certain all documents have been returned intact. The documents in the record file should be kept secure, either in a locked room or in locked cabinets.

The record file located at or near the site should be handled with similar care. If possible, the record file should be treated as a non-circulating reference; it should not leave the local repository except under supervision. The phone number of a record file contact should be provided to record file users and to the manager of the local repository so that problems can be identified and resolved. This information can be included in an informational fact sheet accompanying the record file (see Appendix H). In addition, the Record Coordinator should plan periodic reviews of the local record files.

Where the site is a fund-lead or PRP-lead, EPA should retain (in addition to the publicly available record file) a master copy of the record file at the regional office or other central

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location, if feasible. Where a state or other federal agency is the lead agency at a site, EPA should assure that the state or other federal agency maintains (in addition to the publicly available record file) a master copy of the record file. The record files are permanent records that must be retained.

As to the local repository, the statute and regulations are silent concerning the duration of public availability of the record file. The lead agency's primary concern is public participation in development of the administrative record. Following initiation of the response action, public interest in background information other than the Record of Decision or RI/FS may wane. In any event, the statutory provisions for judicial review and deadlines for filing cost recovery actions provide useful references for keeping the record file publicly available. See Sections 113(g) and (h) of CERCLA.

Where there is ongoing (or possible) litigation, the record file in the regional or other central location should be available at least until the litigation is over.

The record file continues to serve as a historical record of the response selection, even after the statute of limitations for cost recovery action has passed. Where there is considerable public interest, the local repository may wish to keep the record file available for public viewing.

H. Confidential File

In certain situations, documents in the record file may be subject to an applicable privilege (see section III.H. at page 34). To the extent feasible, information relevant to the response selection which is contained in a privileged document should be summarized or redacted as to make the document disclosable and then included in the publicly accessible portion of the record file. The privileged document should be included in a confidential portion of the record file.²⁵

The Administrative Record Coordinator should maintain a confidential portion of the record file for privileged documents. These documents should be listed in the index to the entire record file and identified as "privileged." The index should identify the title and location of the privileged document, and describe the basis for the asserted privilege.

The confidential portion of the record file should be stored in locked files at the regional office or other central location

²⁵ See 40 C.F.R. §300.810(d).

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and should not be located at or near the site. The confidential portion of the record file should be separate from the publicly available record file to protect against inadvertent disclosure. Each privileged document should be stamped "confidential" at the bottom of each page of the document. Where the material is not a written document (such as a computer disk or cassette tape) the jacket should be stamped "confidential." A complete list of all materials contained in the confidential portion of the record file should be maintained by the Record Coordinator. The Record Coordinator should also maintain a log which will include the time, date, document name, and will identify persons checking out and returning materials to the confidential file.

As soon as a new record file is established, a routine access list for the confidential file should be prepared for each record file. When EPA is the lead agency, this routine access list must be approved by the Waste Management Division Director or the Environmental Services Division Director, and ORC. Once approval is given, persons on the list will be able to access the confidential files through the Record Coordinator. No one should have access to the confidential files other than those identified on the routine access list. For state or other federal agency-lead sites, the Regions should take steps to insure that state or other federal agencies develop routine confidential file access list procedures.

This policy and procedure for privileged materials does not supersede any policy and procedures established under the Freedom of Information Act (FOIA), 5 U.S.C. §552, and EPA regulations implementing FOIA at 40 C.F.R. Part 2. Upon receipt of requests for the administrative record file pursuant to FOIA, if the requester is in close proximity to the record file, the lead agency may respond to FOIA requests by telling a requester the location and availability of the record file. Decisions regarding disclosures of materials under FOIA should be coordinated among the various lead agency officials with access to such materials.

I. Copying

Section 117(d) of CERCLA requires that each document developed, received, published, or made available to the public under Section 117 be made available for public inspection and copying at or near the site. Under Section 113(k)(2)(B) of CERCLA, these documents must also be included in the administrative record file. Under these provisions of CERCLA, the lead agency must ensure that documents in the record file are available for copying, but does not bear responsibility for copying the documents themselves. Therefore, it is preferable

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that the record file should be located in a facility which contains a copying machine (e.g., a public library).

When the administrative record file is available at a facility at or near the site and copying facilities are available there, the lead agency may encourage the requester to make use of the copying facilities at that location. If copying of the record file located at or near the site is difficult for a requesting party, the lead agency may arrange for copying on behalf of a requester at the regional or other central location. The lead agency may ask that requesters arrange for copying by contractors or commercial copy centers who then bill the requester directly.

The lead agency should follow the FOIA regulations at 40 C.F.R. Part 2, in determining the appropriate charge for copying. Copying fees should be waived for other federal agencies, EPA contractors or grantees, and members of Congress. The EPA currently charges \$.20 a page for paper copies as provided in 40 C.F.R. Part 2. Reproduction of photographs, microfilms or magnetic tapes, and computer printouts should be charged at the actual cost to the lead agency.

J. Micrographics

The lead agency may make the administrative record file available to the public in microform.²⁶ Use of micrographics can significantly reduce the space required to store administrative record files. In addition, micrographics can simplify the tasks of reproducing copies of the record file and transmission of the record files to the local repositories. Any use of micrographics should be conducted in an orderly manner consistent with records management procedures. If using micrographics to maintain the record files, the lead agency must provide a micrographic reader at the regional office or other central location to ensure public access to the record file. If a record file is located at or near the site and micrographics are used, the lead agency must ensure that a micrographic reader at that location is available.

Microform copies of original documents are admissible in court if created in an organized fashion. The Business Records as Evidence Act (28 U.S.C. §1732) specifies that copies of records, which are made "in the regular course of business" and copied by any process which accurately reproduces the original, are "as admissible in evidence as the original itself." See also Federal Rules of Evidence 1003. Since the NCP provides for use of microform, microform copies of administrative record documents

²⁶ See 40 C.F.R. §300.805(c).

that are produced in the regular course of business are likely to be admissible in court.

The Office of Information Resources Management (OIRM) has granted approval for the use of micrographics in establishing administrative records (see Appendix J). Any use of micrographics should still comply with the remaining provisions of Chapter 6 of the EPA Records Management Manual (7/13/84).

K. Certification

A certification as to the completeness of the administrative record must be performed when the record is filed in court. Appendix K contains a model court certification.

When EPA is the lead agency such certification should be signed by the Regional Administrator's designee, after consultation with ORC. Any certification of the record should be made by program staff and not legal staff. The region may also choose to have the Administrative Record Coordinator certify that the record was compiled and maintained in accordance with applicable agency regulations and guidance. Such certification would attest that the record was compiled in accordance with current agency procedures and would not address the completeness of the record file.

If a state or other federal agency is the lead agency that agency must certify that the record was compiled and maintained in accordance with applicable EPA regulations and guidance. After the state or federal agency provides this certification, the Regional Administrator's designee should certify as to the completeness of the record, as provided in Appendix K.

III. CONTENTS OF THE ADMINISTRATIVE RECORD

- Letter of transmittal to repository - Appendix K Acknowledgment Form See p 9
to Guidance

A. Remedial Actions

The administrative record for selection of a remedial action should consist of:

- o documents which were considered or relied on to select the remedial action; and
- o documents which demonstrate the public's opportunity to participate in and comment on the selection of the remedial action.²⁷

²⁷ See 40 C.F.R. §§300.810 and 300.815.

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Below is a list of documents that are usually generated when a remedial response action is selected. These documents should be included in the administrative record file if they are generated and considered or relied on in selecting the remedial response action. Documents that demonstrate the public's opportunity to participate in and comment on selecting the remedial response action should also be included in the record file. Documents not listed below, but meeting the above criteria, should be included.

Factual Information/Data

- o Preliminary Assessment (PA) report;
- o Site Investigation (SI) report;
- o Remedial Investigation/Feasibility Study (RI/FS) work plan;
- o Amendments to the final work plan;
- o Sampling and Analysis Plan (SAP): consisting of a quality assurance project plan (QAPP) and a field sampling plan;
- o Sampling data: verified data during the RI/FS, or any data collected for previous actions such as RCRA or removal actions which are considered or relied on in selecting the remedial action. Unvalidated data should be included only if relied on in the absence of validated data (see note 9 at page 10);
- o Chain of custody forms;
- o Inspection reports;
- o Data summary sheets;
- o Technical studies performed for the site (e.g., a ground-water study);
- o Risk evaluation/endangerment assessment and underlying documentation (see section III.C. at page 29);
- o Fact sheet or summary information regarding remedial action alternatives generated if special notice letters are issued to PRPs at an early stage of the RI/FS (see "Interim Guidance on Notice Letters, Negotiations, and Information Exchange," October 19, 1987 - OSWER Directive No. 9834.1);
- o RI/FS (as available for public comment and as final, if different); and

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- o Data submitted by the public, including PRPs.

Policy and Guidance

- o Memoranda on site-specific or issue-specific policy decisions. Examples include memoranda on off-site disposal availability, special coordination needs (e.g., dioxin), applicable or relevant and appropriate requirements (ARARs) (to the extent not in the RI/FS), cost effectiveness and utilization of permanent solutions and alternative treatment technologies;
- o Guidance documents (see section III.I. at page 37); and
- o Technical literature (see section III.J. at page 38).

Public Participation (Include the documents that show the public was notified of site activity and had an opportunity to participate in and comment on the selection of response action)

- o Community relations plan;
- o Newspaper articles showing general community awareness;
- o Proposed plan;
- o Documents sent to persons on the community relations mailing list and associated date when such document was sent;
- o Public notices: any public notices concerning response action selection such as notices of availability of information, notices of meetings and notices of opportunities to comment;
- o The community relations mailing list (including all known PRPs);²⁸
- o Documentation of informal public meetings: information generated or received during meetings with the public and

²⁸ Individual names and addresses of members of the general public which are on the community relations mailing list should not be included in the public record file. Disclosure of such information may result in a Privacy Act violation (see also section III.H. at page 34) or inhibit the general public from requesting information about the site. The lead agency should then place individual names and addresses in the confidential portion of the record file.

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memoranda or notes summarizing significant information submitted during such meetings;

- o Public comments: complete text of all written comments submitted (see also section III.D. at page 30);
- o Transcripts of formal public meetings: including meetings held during the public comment period on the RI/FS, proposed plan, and any waiver of ARARs under Section 121(d)(4) of CERCLA;
- o Responses to significant comments: responses to significant comments received from the public concerning the selection of a remedial action; and
- o Responses to comments from the state and other federal agencies.

Enforcement Documents (Include if the document contains information that was considered or relied on in selecting the response selection or shows that the public had an opportunity to participate in and comment on the selection of response action. Do not include enforcement documents solely pertaining to liability)

- o Administrative orders;
- o Consent decrees;
- o Affidavits containing relevant factual information not contained elsewhere in the record file;
- o Notice letters to PRPs;
- o Responses to notice letters;
- o Section 104(e) information request letters and Section 122(e) subpoenas; and
- o Responses to Section 104(e) information request letters and Section 122(e) subpoenas.

Other Information

- o Index (see section II.D. at page 7);
- o Documentation of state involvement: documentation of the request and response on ARARs, Section 121(f)(1)(G) notices and responses, a statement of the state's position on the proposed plan (concurrence, nonconcurrence, or no comment at

the time of publication), opportunity to concur in the selected remedy and be a party to a settlement (see section IV.A. at page 42);

- o health assessments, health studies, and public health advisories issued by the Agency for Toxic Substances and Disease Registry (ATSDR) (see section IV.C. at page 45); and
- o Natural Resource Trustee notices and responses, findings of fact, final reports and natural resource damage assessments (see section IV.D. at page 45)

Decision Documents

- o Record of decision (ROD): remedial action decision document (including responsiveness summary);
- o Explanations of significant differences (under Section 117(c)) and underlying information; and
- o Amended ROD and underlying information.

The administrative record serves as an overview of the history of the site and should be understandable to the reader. Appendix B provides a model file structure for organizing the record file. Appendix C contains a model index.

B. Removal Actions

The administrative record for selection of a removal action should consist of:

- o documents which were considered or relied on to select the removal action; and
- o documents which demonstrate the public's opportunity to participate in and comment on the selection of the removal action, when appropriate.²⁹

Below is a list of documents that are usually generated when a removal response action is selected. These documents should be included in the administrative record file if they are generated and considered or relied on when selecting the removal action. Documents that demonstrate the public's opportunity to participate in and comment on the removal response action should also be included in the record file. Documents not listed below, but meeting the above criteria, should be included.

²⁹ See 40 C.F.R. §§300.810 and 300.820.

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Factual Information/Data

- o Preliminary assessment (PA) report;
- o Site evaluation (SI) report;
- o EE/CA (for a non-time-critical removal action);
- o Sampling plan;
- o Sampling data: verified data obtained for the removal action, or any data collected for previous actions such as RCRA or other response actions which are considered or relied on in selecting the removal action. Unvalidated data should be included only if relied on in the absence of validated data (see note 9 at page 10);
- o Chain of custody forms;
- o Inspection reports;
- o Technical studies performed for the site (e.g., a ground water study);
- o Risk evaluation/endangerment assessment and underlying documentation; and
- o Data submitted by the public, including PRPs.

Policy and Guidance

- o Memoranda on site-specific or issue-specific policy decisions. Examples include memoranda on off-site disposal availability, compliance with other environmental statutes, special coordination needs (e.g., dioxin);
- o Guidance documents (see section III.I. at page 37); and
- o Technical literature (see section III.J. at page 38).

Public Participation (Include the documents that show the public was notified of site activity and had an opportunity to participate in the response selection.)

- o Community relations plan;
- o Newspaper articles showing general community awareness;
- o Documents sent to persons on the community relations mailing list and associated date when such documents was sent;

- o Public notices: any public notices concerning response action selection such as notices of availability of information, notices of meetings, and notices of opportunities to comment;
- o The community relations mailing list (including all known PRPs);³⁰
- o Documentation of public meetings: information generated or submitted during meetings with the public (including PRPs) and memoranda or notes summarizing significant information submitted during such meetings;
- o Public comments: complete text of all written comments submitted (see section III.D. at page 30);
- o Responses to significant comments: responses to significant comments received from the public concerning the selection of a removal action; and
- o Responses to comments from states and other federal agencies.

Enforcement Documents (Include if the document contains information that was considered or relied on in selecting the response selection or shows that the public had an opportunity to participate in and comment on the selection of response action. Do not include enforcement documents solely pertaining to liability)

- o Administrative orders;
- o Consent decrees;
- o Affidavits containing relevant factual information not contained elsewhere in the record file;
- o Notice letters to PRPs;

³⁰ Individual names and addresses of members of the general public which are on the community relations mailing list should not be included in the public record file. Disclosure of such information may result in a Privacy Act violation (see also section III.H. at page 34) or inhibit the general public from requesting information about the site. The lead agency should then place individual names and addresses in the confidential portion of the record file.

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- o Responses to notice letters;
- o Section 104(e) information request letters and Section 122(e) subpoenas; and
- o Responses to Section 104(e) information request letters and Section 122(e) subpoenas.

Other Information

- o Index (see section II.D. at page 7);
- o Documentation of state involvement (see section IV.A. at page 42);
- o ATSDR health assessments, health studies, and public health advisories (see section IV.C. at page 45); and
- o Natural Resource Trustee notices and responses, findings of fact, final reports and natural resource damage assessments (see IV.D. at page 45).

Decision Documents

- o EE/CA Approval Memorandum;
- o Action Memorandum;
- o Amended Action Memorandum; and
- o Other documents which embody the decision for selection of a removal action.

The administrative record serves as an overview of the history of the site and should be understandable to the reader. Appendix B provides a model file structure for organizing the record file. Appendix C contains a model index.

C. Imminent and Substantial Endangerment

Under Section 106 of CERCLA, the EPA may find the existence of an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance.

Determining the existence of an imminent and substantial endangerment is an important component in selecting the response action. Therefore, all documents considered or relied on in making that determination, including any risk assessment, and its supporting documentation, must be included in the administrative

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record file.³¹ If there is proper documentation of the determination of an imminent and substantial endangerment in the record file, judicial review of that determination in an action under Section 106 of CERCLA should be limited to the administrative record.

D. Public Comments

The administrative record file should document the public's opportunity to be involved in selecting a response action. This can be accomplished by including in the record file all documents related to the opportunity to participate (e.g., notices and fact sheets), and relevant written comments and information submitted by the public (e.g., reports and data).

Public requests for information (e.g., Freedom of Information Act (FOIA) requests for copies of reports), need not be included in the record file.

The lead agency should request that substantive oral comments (either in person or over the phone) be put in writing by the commenter and submitted to the record file. The commenter should be advised that the obligation to reduce the comment to writing rests with the commenter. The lead agency, however, may reduce it to writing where the lead agency will want to rely on the comment.

The lead agency may respond to comments received prior to a public comment period in various ways, depending on the nature and relevance of a particular comment. The lead agency's consideration of such a comment may be in the form of a written response, or reflected by documented actions taken after receiving the comment, or even by changes in subsequent versions of documents. If the lead agency prepares a written response to a comment, the comment and response should be included in the record file.

The lead agency may notify commenters that comments submitted prior to a formal public comment period must be resubmitted or specifically identified during the public comment period in order to receive formal response by the lead agency. Alternatively, the lead agency may notify a commenter that the lead agency will respond to the comment in a responsiveness summary prepared at a later date. The lead agency, however, has

³¹ See "Guidance on Preparing Superfund Decision Documents: The Proposed Plan, The Record of Decision, Explanation of Significant Differences, ROD Amendment," OSWER Directive No. 9355.3-02, June 1989.

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no duty to respond to any comments received before the formal public comment period, or to respond to comments during the public comment period until the close of the public comment period.

The lead agency, however, is encouraged to consider, respond to and include in the record file significant comments that were submitted before the public comment period. Considering early comments provides practical benefits both substantively and procedurally. Early comments may provide important information for the selection decision, and early consideration provides the public (and, particularly, PRP's) with additional informal opportunities for participating in the decision making process.³²

All comments received by the lead agency during the formal public comment period are to be included in the record file in their original form, or if not feasible, an explanation should be placed in the record file explaining why such comments were not included. Comments received during the formal public comment period must be addressed in the responsiveness summary (included with the ROD in remedial response actions). The responses may be combined by subject or other category in the record file.

Comments which are received after the formal comment period closes and before the decision document is signed should be included in the record file but labeled "late comment." Such comments should be handled as post-decision information (see section III.N. at page 40).

Comments received after the decision document is signed should be placed in a post-decision document file. They may be added to the record file in limited circumstances (see section III.N. at page 40).

E. Enforcement Actions

The same procedures should be used for establishing an administrative record whether or not a response action is selected in the context of an enforcement action. The following additional information, however, may assist the lead agency where there is enforcement activity.

E.1. Negotiation Documents

During negotiations with the lead agency, a potentially responsible party (PRP) may produce documents and claim that they

³² See 40 C.F.R. §§300.815(b), 300.825(a)(2) and (b)(2).

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constitute confidential business information (CBI) or offers of settlement subject to Rule 408 of the Federal Rules of Evidence.

Generally, those documents are not part of the administrative record for response selection unless they are submitted by PRPs for consideration in selecting a response action and are considered or relied on in selecting the response action. A privileged document which was considered or relied on in selecting the response action should be placed in the confidential portion of the record file. Such a document should be summarized and the summary included in the publicly accessible portion of the record file (see section II.H. at page 19). If the information cannot be summarized in a disclosable manner, the information should be placed in the confidential portion of the record file only and listed in the index to the file.

E.2. PRP-Lead RI/FS

Where a PRP is conducting the RI/FS, the PRP must submit all technical information on selection of the remedial action generated during the RI/FS to the lead agency. Technical information includes work plans, sampling data, reports, and memoranda. The lead agency, and not the PRP, will establish and maintain the administrative record file (see "Interim Guidance on Potentially Responsible Party Participation in Remedial Investigations and Feasibility Studies," May 16, 1988, OSWER Directive No. 9835.1a and "Model Administrative Order on Consent for Remedial Investigation and Feasibility Study," January 30, 1990, OSWER Directive No. 9835.10.)

PRPs may be delegated responsibility for some record file maintenance activities, such as housing the files at or near the site. PRPs cannot, however, be responsible for decisions on what documents comprise the record file, because of, among other things, the potential for a conflict of interest.

E.3. Administrative Orders and Consent Decrees

Final administrative orders and consent decrees issued prior to selection of the response action (e.g., ordering a PRP to conduct the RI/FS), should be included in the administrative record file. Administrative orders or consent decrees issued after the signing of the ROD or the action memorandum should not be included in the record file, unless the consent decree or administrative order meets the criteria for the inclusion of post-decision documents in the record file (see section III.N. at page 40). Drafts of administrative orders and consent decrees should not be included in the record file, unless the drafts contain factual information that was considered or relied on and is not found elsewhere in the record file.

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The issues relating to administrative records for administrative orders and de minimis settlements are not addressed by this guidance.

F. Excluded Documents

Certain documents should not be included in the administrative record file because they are irrelevant to the selection of the response action. Documents should be excluded from the record file if they were not considered or relied on in selecting the response action.

Material beyond the scope of the record file should be kept in separate files maintained at the regional office or other central location. These files need not be made publicly available, although many of the documents in the files may be available to the public if requested under FOIA.

Examples of documents that are irrelevant to the decision on selecting a response action may include Hazard Ranking System (HRS) scoring packages, contractor work assignments, cost documentation (as opposed to cost effectiveness information), and National Priorities List (NPL) deletion information. If, however, these documents contain information that is considered or relied on in the response action selection and is not contained elsewhere in the record file, then the documents should be included in the record file.

Information regarding PRP liability is generally not included in the record file for selection of the response action except to the extent such information (typically substance specific) is considered or relied on in selecting the response action. Documents relating to PRP liability, however, should be compiled and maintained in the regional office or other central location so that they are available at the time of notice to PRPs or referral of any litigation.

G. Draft Documents and Internal Memoranda

In general, only final documents should be included in the administrative record file. The record file should not include preliminary documents such as drafts and internal memoranda. Such documents are excluded from the record file because drafts and internal memoranda are often revised or superseded by subsequent drafts and memoranda prior to the selection of the response action. The preliminary documents are, therefore, not considered or relied on in making the response action decision.

Drafts (or portions of them) and internal memoranda should be included, however, in three instances. First, if a draft

document or internal memorandum is the basis for a response decision the draft document or internal memorandum should be placed in the record file. This may occur if the draft contains factual information which was relied on but is not included in a final document, a final document does not exist, or a final document did not exist when the response decision was made.

Second, if a draft document or internal memorandum is circulated by the lead agency to other persons (e.g., the support agency, PRPs or the general public) who then submit comments which the decisionmaker considers or relies on when making a response action decision, relevant portions of the draft document or the memorandum and comments on that document should be included in the record file.

Third, if a draft document or internal memorandum explains or conveys decisions on the procedures for selecting the remedy or the substantive aspects of a proposed or selected remedy (e.g., the scope of a site investigation or the identification of potential ARARs), the document should be placed in the record file, even though the document was signed by a person other than the Regional Administrator and generated long before the decision document was signed.

Examples of internal memoranda and staff notes which should not be included in the record file are documents that express tentative opinions or internal documents that evaluate alternative viewpoints. Recommendations of staff to other staff or management should also not be included in the record file, except for those staff recommendations which ultimately embody a final decision relevant to response selection. Drafts and internal memoranda may also be subject to claims of privilege (see section III.H., below).

H. Privileged Documents

Some documents in the administrative record file may be protected from public disclosure on the basis of an applicable privilege.³³ Any documents which are considered or relied on in a response action selection, but withheld from the public portion of the record file based on privilege, must be placed in a confidential portion of the record file (see section II.H. at page 19).

If a document is excluded from the public portion of the record file based on privilege, the relevant information should, to the extent feasible, be extracted and included in the public

³³ See 40 C.F.R. §300.810(c).

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record file. This can often be accomplished by deleting or redacting the privileged information from the document.

The privileges discussed below may be asserted with respect to documents that are considered or relied on in the selection of a response action. The head of the office responsible for developing the document in question should assert the privilege. In all cases, the official asserting a privilege should consult with ORC.

Public disclosure of a privileged document may result in waiver of the privilege, although the nature and extent of the waiver will depend on the privilege asserted and the circumstances of the disclosure. If the privilege is waived and the document becomes a public document, it must be disclosed to any requester. In light of the potential for waiver, it is important that personnel not release potentially privileged documents to any party without consulting with ORC.

Deliberative Process

The deliberative process privilege applies to pre-decisional, deliberative communications that express opinions, advice, and recommendations of staff to other staff or management. The privilege functions to encourage the honest and free expression of opinion, suggestions and ideas among those formulating policy for government agencies (see "Guidance for Assertion of Deliberative Process Privilege," 10/3/84).

In general, if a document contains factual information forming the basis for the selection of the response action, the factual portion should be included in the record file.

Use of the deliberative process privilege should be balanced with the statutory mandate of including the public in the response action selection process. The privilege should be asserted if disclosure of the document will have an inhibiting effect on frank and open discussion among government staff and decisionmakers. Documents should not be withheld solely because they would reveal flaws in the case or information embarrassing to the government. Specific procedures exist for assertion of the deliberative process privilege, which include consulting with ORC.

Confidential Business Information (CBI)

The EPA must withhold from the public record trade secrets and commercial and financial information that is subject to protection under 40 C.F.R. Part 2. However, Section 104(e)(7) of CERCLA greatly restricts the assertions of confidentiality claims

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by PRPs at CERCLA sites. The decisionmaker should attempt to avoid using CBI in making response action decisions and can do so in most cases by using other information instead.³⁴ Where the decisionmaker must use CBI in making its decision, 40 C.F.R. Part 2 and Section 104(e)(7) of CERCLA will apply and such information should be placed in the confidential portion of the administrative record file.

Attorney Work Product

This exclusion applies to documents prepared in anticipation of possible litigation. The work product privilege covers all documents prepared by an attorney or under an attorney's supervision, including reports prepared by a consultant or program employee. Litigation need not have commenced but it must be reasonably contemplated. These documents generally relate to enforcement or defensibility of a decision and are not considered or relied on in selecting a response action. These documents should not, therefore, be in the administrative record file.

Attorney-Client Communication

The attorney-client privilege applies to confidential communications made in connection with securing or rendering legal advice. The privilege is limited to communications where there was an intention to keep the information confidential.

Personal Privacy

This exemption covers information about individuals in personnel, medical, and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The records must pertain to an individual, and not a business, to be excluded from the public portion of the administrative record file under this exemption. Often, information subject to the protection under the personal privacy privilege can be redacted from the document and the redacted version can be placed in the public portion of the record file.

State Secrets

The lead agency is authorized to exclude from public scrutiny information which, if released, would harm national security or interfere with the government's ability to conduct foreign relations. This privilege could be particularly important where the PRP is a federal agency or a contractor for a federal agency. In the case of a federal facility cleanup, an

³⁴ See 40 C.F.R. §300.810(d).

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Inter-Agency Agreement should spell out procedures for asserting this privilege.

Confidential Informant

Statements obtained from witnesses who have been granted confidentiality may be privileged.

Information Exempted by Other Statutes

Information specifically exempted from disclosure by a federal statute need not be part of the public record. The statute in question must leave no discretion as to the requirement that matters be withheld from the public, or it must establish particular criteria for withholding or refer to particular types of matters to be withheld.

I. Guidance Documents

Guidance documents, or portions of guidance documents, that are considered or relied on in selecting a response action should be included in the administrative record file for that response action. Any guidance documents generated to address issues that specifically arise at the site for which the record file is being compiled should be physically included in the record file. Certain guidance documents, however, do not have to be kept in the record file. Guidance documents not generated for the particular site for which the record is being compiled may be kept in a compendium of guidance documents maintained at the regional office or other central location.³⁵

Each Region should maintain a compendium of guidance documents which are frequently used in selecting response actions. As with an administrative record file, the compendium of guidance documents must be available to the public, but only at the regional office or other central location. The record file located at or near the site should contain an index to the compendium of guidance documents. The Administrative Record Coordinator should maintain and update the compendium of guidance documents. If a guidance document maintained in the compendium is considered or relied on when making a response action decision, the index to the record file must list the document and indicate its location and availability. See also Appendix E.

If a guidance document is listed in a bibliography to a document included in the record file (e.g., listed in the bibliography to the RI/FS), it need not be listed again in the

³⁵ See 40 C.F.R. §300.805(a)(2).

index to the record file. In this case, however, the index must state that documents listed as bibliographic sources might not be listed separately in the index.

If a guidance document which is not included in the guidance compendium is considered or relied on in selecting the response action, the document should be physically included in the record file.

J. Technical Literature

Technical literature generated for the site at issue should be physically included in the administrative record file for that site, whether or not it is publicly available.

Similarly, technical literature not specifically generated for the site which is not publicly available should also be included in the site-specific record file. Such documents include technical journals and unpublished documents that are not available through the Library of Congress or not circulated to technical libraries.

Publicly available technical literature not generated for the site, however, need not be located at or near the site or at the regional office or other central location if the documents are referenced in the index to the record file.³⁶ These documents do not have to be physically included in the record file, unless requested, because they are already available to the public. Copying such documents creates a significant burden to the lead agency and copyright laws may pose additional barriers to such copying. Examples of publicly available technical literature include engineering manuals, groundwater monitoring or hydrogeology textbooks, ATSDR toxicological profiles, and articles from technical journals.

If technical literature is listed in a bibliography to a document included in the record file (e.g., listed in the bibliography to the RI/FS), it need not be listed again in the index to the record file. In this case, however, the index must state that documents listed as bibliographic sources might not be listed separately in the index.

Computer models and technical databases need not be physically included in the record file but should be referenced in the index to the record file and made available upon request. Printouts or other documents produced from the models and databases should be physically included in the record file if

³⁶ See 40 C.F.R. §300.805(b)(3).

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such documents contain information which was considered or relied on in selecting the response action.

K. Legal Sources

Copies of statutes and regulations cited in documents included in the record file need not be included in the record file if they are readily available to the public. For example, the NCP and other regulations are easily accessible since they are published in the Federal Register and the Code of Federal Regulations (C.F.R.).

Copies of the actual standards (statutes or regulations) comprising federal and state ARARs should be physically included in the record file if they are not easily accessible. Also, other federal and state criteria, advisories, and guidance documents pertinent to the site (e.g., what the EPA refers to as "TBCs," or standards "to be considered"), may not be easily accessible. If such documents are cited in an RI/FS, appendix to the RI/FS, EE/CA, or ROD, those advisories which are not readily available should be included in the record file.

L. NPL Rulemaking Docket Information

Generally, information included in the National Priorities List (NPL) rulemaking docket, such as the Hazard Ranking System (HRS) scoring package and comments received on the listing, need not be included in the record file for selection of a response action. The NPL docket contains information relevant to the decision to list a site, which may be irrelevant to the decision on response action selection.

Documents in the NPL docket which contain sampling data or other factual information which was considered or relied on in selecting a response action should be included in the record file if the information is not available already in the record file. Such information may include early sampling data taken by parties other than the lead agency or its contractors (e.g., a State).

M. RCRA Documents

If an action is taken under CERCLA at a site with a history of Resource Conservation and Recovery Act (RCRA) activity, much of the information relating to those RCRA activities may be considered or relied on in making the CERCLA response action selection. Any relevant RCRA information, particularly information on waste management and RCRA corrective action at the site, should be included in the administrative record file (e.g., RCRA permit applications, inspection reports, RCRA Facility Assessment (RFA), RCRA Facility Investigation (RFI), Corrective

Measures Studies (CMS), or responses to RCRA information requests).

Not all pre-existing RCRA information will be considered or relied on in selecting a CERCLA response action, but information on types of wastes, quantity of wastes, and observations of potential threats gathered during RCRA investigations generally will be considered and thus should be included in the record file.

N. Post-Decision Information

In all cases, documents generated or received after signing the decision document should be kept in a post-decision document file. This file is not part of the administrative record file and should be maintained only at the regional office or other central location.

In general, post-decision documents should not be added to the administrative record file. Since the record file contains the information which was considered or relied on in selecting the response action, documents generated or received after selecting the response action are not relevant to that response decision and should not be included in the record file. Such documents may, however, be relevant to later response selection decisions and, if so, should be included in the record file pursuant to Section 300.825 of the NCP.

Documents kept in the post-decision document file may be added to the record file in the situations described below:

- o Where a decision document does not address or reserves a portion of the decision to be made at a later date.³⁷ For example, a decision document that does not resolve the type of treatment technology. In such cases, the lead agency should continue to add documents to the record file which form the basis for the unaddressed or reserved portion of the decision;
- o Where there is a significant change in the selected response action.³⁸ Changes that result in a significant difference to a basic feature of the selected remedial action (e.g., timing, ARARs), with respect to scope, performance, or cost

³⁷ 40 C.F.R. §300.825(a)(1).

³⁸ 40 C.F.R. §300.825(a)(2). See 40 C.F.R. §300.435(c)(2)(i).

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may be addressed in an explanation of significant differences. Section 117(c) of CERCLA states:

[a]fter adoption of a final remedial action plan -
(1) if any remedial action is taken, (2) if any enforcement action under section 106 is taken, or (3) if any settlement or consent decree under section 106 or section 122 is entered into, and if such action, settlement, or decree differs in any significant respects from the final plan, the President or the State shall publish an explanation of the significant differences and the reasons such changes were made.

The record file should include the explanation of significant differences, underlying documentation for the response action changes, any significant comments from the public, and the lead agency responses to any significant comments. A formal public comment period is not required for an explanation of significant differences;

- o Where the changes are so significant that they fundamentally alter the very nature or basis of the overall response action. Such changes will require an amended decision document.³⁹ The Region will decide whether a change to a response action is considered a significant or a fundamental change for purposes of addressing the change (see Chapter 8 of "Interim Final Guidance on Preparing Superfund Decision Documents: The Proposed Plan and Record of Decision," June 1989, OSWER Directive No. 9355.3-02).

When the decision document is amended, the amended decision document, the underlying documentation, any significant comments from the public, and the lead agency's responses to any significant comments, should be included in the record file. ROD amendments will require a formal public comment period;⁴⁰

- o Where comments containing significant information are submitted by interested persons after the close of the public comment period. The lead agency must consider such comments only to the extent that the comments contain significant information not contained elsewhere in the record file which could not have been submitted during the public comment period and which substantially support the

³⁹ 40 C.F.R. §300.825(a)(2).

⁴⁰ 40 C.F.R. §300.435(c)(2)(ii).

need to significantly alter the response action.⁴¹ Documents meeting this test should be included in the record file, along with the lead agency's responses to the significant comments, whether or not such information results in a change to the selected decision. In this case, the comments and the lead agency responses to such comments, including any supporting documents, should be included in the record file; and

- o Where the lead agency holds public comment periods after the selection of the response action.⁴² The lead agency may hold additional public comment periods or extend the time for submission of public comment on any issue concerning response selection. Such comment should be limited to the issues for which the lead agency requested additional comment. All comments responsive to the request submitted during such comment periods, along with any public notices of the comment period, transcripts of public meetings, and lead agency responses to the comments, should be placed in the record file.

IV. INVOLVEMENT OF OTHER PARTIES

A. States

A.1. State Involvement in Federal-Lead Sites

The administrative record for a federal-lead site must reflect the state's opportunity to be involved in selecting the response action. The record for a remedial action should include documents that reflect at least the following state participation or the opportunity for state participation:⁴³

- o Letter to state requesting identification of ARARs and the final response from state identifying ARARs (and certification from the state);
- o Comments, or the opportunity to comment, on a proposed finding or decision to select a response action not attaining a level or standard of control at least equivalent to a state ARAR;

⁴¹ 40 C.F.R. §300.825(c).

⁴² 40 C.F.R. §300.825(b).

⁴³ See also Section 121(f) of CERCLA

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- o Comments, or the opportunity to comment, on the final draft RI/FS, the proposed plan and EPA responses to the comments;
- o Significant post-decision comments by the state and EPA responses to the comments (place in the post-decision document file for possible inclusion in the record file - see section III.N. at page 40).

The administrative record for a removal action should reflect any state participation, especially any state comments and EPA responses to the comments.

The record file should only include final state comments, unless the comments explain or convey decisions on substantive aspects of a proposed or selected remedy (e.g., the scope of a proposed action or the identification of potential ARARs). Any preliminary deliberations between the state and EPA relevant to the response selection need not be part of the record file if superseded by documentation of the state's final position.

The governing body of an Indian tribe should be afforded the same treatment as a state in accordance with Section 126 of CERCLA.

A.2. Federal Involvement in State-Lead Sites

Where a state has been officially designated the lead agency for a CERCLA site, the state must compile and maintain the administrative record for that site in accordance with Section 113(k) of CERCLA and Section 300.800 of the NCP. Since EPA has ultimate responsibility for both the selection of a response action (e.g., EPA signs the ROD) and the record on which that response action is based, EPA must participate in compiling and maintaining the record. In such cases, EPA must assure that the record file forms a complete basis for the selection of the response action.

The state as lead agency must maintain the record file at a state office (e.g., the state's central environmental agency office) and at or near the site. At a minimum, the state as lead agency also must transmit a copy of the index, the RI/FS work plan, the RI/FS released for public comment, the proposed plan, and any public comments received on the RI/FS and the proposed plan to the appropriate EPA Regional office.⁴⁴ These documents should be transmitted to EPA as they are generated or received. Transmittal of the index will not suffice. In addition, other documents may be requested by EPA on a case-by-case basis.

⁴⁴ See 40 C.F.R. §300.800(c).

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The Superfund Memorandum of Agreement (SMOA), or Cooperative Agreement (CA), must address the administrative record requirements. The following language should be included in the SMOA or CA where the state has been officially designated the lead agency for a CERCLA site:

The state must compile and maintain the administrative record upon which the selection of the [remedial, removal] action is based. The compilation and maintenance of the record must follow 40 C.F.R. Part 300, Subpart I and EPA guidance on the administrative record. The administrative record must be located at the state [environmental agency] office, and at or near the site. In addition, the state must submit copies of the index, the RI/FS workplan, the RI/FS released for public comment, the proposed plan, and any public comments received on the RI/FS and proposed plan to the EPA Regional office, as they are added to the administrative record file. In addition, the state must submit other documents that are requested by EPA. The state shall comply with Section 113 of CERCLA and any applicable regulations. EPA may require the retention of other documents for cost recovery purposes.

The record file compiled by the state should reflect EPA's participation, comments, concurrence, and disagreements at the same stages as are required for state involvement in a federal-lead site. The state must place in the record file any documents submitted by EPA for inclusion in the record file.

B. Federal Facilities

Federal agencies have the responsibility, pursuant to Executive Order 12580, to establish the administrative record for federal facilities under their jurisdiction, custody, or control where using CERCLA authority for a response action. The record file for a federal facility must include all documents considered or relied on in selecting a response action, including documents submitted by EPA on the selection of the response action. The federal agency must comply with all NCP (see Appendix M) and CERCLA requirements in compiling and maintaining the record, including the minimum public participation requirements in Sections 113 and 117 of CERCLA.⁴⁵

⁴⁵ See 40 C.F.R. §300.800(b).

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The federal agency must maintain the record file at or near the site and ensure easy public access to the record file. If, for example, a site is a Department of Defense facility, the record file should be housed in a location which does not require military clearance for access. The federal agency should keep a complete copy of the record file at a location within the federal agency office comparable to an EPA Regional office.

At NPL sites and any other site where EPA is involved in selecting a response action at a federal facility, EPA must participate in compiling and maintaining the record. In such cases, EPA must assure that the record file forms a complete basis for the selection of the response action. At a minimum, the federal agency must transmit a copy of the index, the RI/FS workplan, the RI/FS released for public comment, the proposed plan, and any public comments received on the RI/FS and proposed plan to the appropriate EPA Regional office. These documents should be transmitted to EPA as they are generated. Transmittal of the index will not suffice. In addition, other documents may be requested by EPA on a case-by-case basis. Inter-Agency Agreements (IAGs) should spell out procedures for compiling and maintaining the record.

C. ATSDR

Participation in the selection of a response action by the Agency for Toxic Substance and Disease Registry (ATSDR) should be reflected in the administrative record. The record file must include the initial and subsequent health assessments and any other information EPA solicits and obtains from ATSDR which EPA considers or relies on in its selection of a response action.

Draft versions of the health assessment and other draft documents upon which ATSDR comments should not be included in the record file. If, however, EPA solicits comments from ATSDR on a draft document such as a draft work plan or RI report, and receives formal comments from ATSDR which EPA considers or relies on in selecting a response action, then the document and comments should be included in the record file.

In the event that the ATSDR health assessment and EPA's risk assessment appear inconsistent, a document explaining the difference should be generated and placed in the record file.

D. Natural Resources Trustees

Section 122(j)(1) of CERCLA requires that the EPA give notice to the Natural Resources Trustee of a release or threatened release of any hazardous substance which may have resulted in damages to natural resources. The administrative

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record file must include the notice to the Natural Resources Trustee, and any subsequent final communications (e.g., a release or final report). In addition, any factual information provided by the Natural Resources Trustee which is considered or relied on in selecting a response action should be included in the record file.

In the event that the Natural Resources Trustee's damage assessment and EPA's risk assessment appear inconsistent, a document explaining the difference should be generated and placed in the record file.

V. DISCLAIMER

The policies and procedures established in this document are intended solely for the guidance of employees of the U.S. Environmental Protection Agency. They are not intended and cannot be relied upon to create any rights, substantive or procedural, enforceable by any party in litigation with the United States. EPA reserves the right to act at variance with these policies and procedures and to change them at any time without public notice.

VI. FURTHER INFORMATION

For further information concerning this memorandum, please contact Gary Worthman in the Office of Waste Programs Enforcement at FTS (202) 382-5646.

GLOSSARY

Administrative Record: as used in this guidance, the body of documents that were considered or relied on which form the basis for the selection of a response action.

Administrative Record File: as used in this guidance, the ongoing collection of documents which are anticipated to constitute the administrative record when the selection of response action is made.

ARAR: applicable or relevant and appropriate requirements (see Section 121(d) of CERCLA).

ATSDR: Agency for Toxic Substance and Disease Registry.

CA: cooperative agreement (entered into with a state or local government to transfer funds to conduct response activities).

CBI: confidential business information.

CERCLA: Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (also known as Superfund).

C.F.R.: Code of Federal Regulations.

CMS: corrective measure study (RCRA corrective action document, equivalent to an FS).

CRC: Community Relations Coordinator.

CRP: community relations plan.

Document: as used in this guidance, includes writings, drawings, graphs, charts, photographs, and data compilation from which information can be obtained. It does not, however, include physical samples.

DOJ: Department of Justice.

EE/CA: engineering evaluation/cost analysis (removal document).

EPA: United States Environmental Protection Agency.

ESD: Environmental Services Division.

Explanation of Significant Differences: post-ROD document described in Section 117(c) of CERCLA.

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FOIA: Freedom of Information Act.

FSP: field sampling plan.

HRS: Hazard Ranking System.

IAG: inter-agency agreement (made with a federal agency).

Lead Agency: the agency that provides the OSC or RPM to plan and implement a response action under the NCP.

NCP: National Oil and Hazardous Substances Pollution Contingency Plan, as revised on March 8, 1990 (55 FR 8859).

NPL: National Priorities List.

OE: EPA Office of Enforcement.

OERR: EPA Office of Emergency and Remedial Response.

OIRM: EPA Office of Information Resources Management.

Operable Unit: a discrete action that comprises an incremental step toward comprehensively addressing site problems (see section 300.5 of the NCP).

ORC: EPA Office of Regional Counsel.

OSC: On-Scene Coordinator (project manager for a removal action)

OSWER: EPA Office of Solid Waste and Emergency Response.

OWPE: EPA Office of Waste Programs Enforcement.

PA: preliminary assessment.

PRP: potentially responsible party.

QAPP: quality assurance project plan.

RA: remedial action.

RCRA: the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

RD: remedial design.

RI/FS: remedial investigation/feasibility study.

OSWER Directive No. 9833.3A-1

RFA: RCRA facility assessment (RCRA document, equivalent to a PA/SI).

RFI: RCRA facility investigation (RCRA corrective action document, equivalent to an RI).

ROD: Record of Decision (documents the selection of a remedial action).

RPM: remedial project manager (project manager for a remedial action).

SAP: sampling and analysis plan.

SARA: Superfund Amendments and Reauthorization Act of 1986 (see CERCLA above).

Site File: the file containing all site documentation.

SI: site investigation.

SMOA: Superfund memorandum of agreement (made with a state).

Support Agency: the agency that provides the support agency coordinator to furnish necessary data to the lead agency, review response data and documents, and provide other assistance as requested by the lead agency. The support agency may also concur on decision documents.

SECTION 113 (J) OF CERCLA

(j) JUDICIAL REVIEW.—

(1) LIMITATION.—In any judicial action under this Act, judicial review of any issues concerning the adequacy of any response action taken or ordered by the President shall be limited to the administrative record. Otherwise applicable principles of administrative law shall govern whether any supplemental materials may be considered by the court.

(2) STANDARD.—In considering objections raised in any judicial action under this Act, the court shall uphold the President's decision in selecting the response action unless the objecting party can demonstrate, on the administrative record, that the decision was arbitrary and capricious or otherwise not in accordance with law.

(3) REMEDY.—If the court finds that the selection of the response action was arbitrary and capricious or otherwise not in accordance with law, the court shall award (A) only the response costs or damages that are not inconsistent with the national contingency plan, and (B) such other relief as is consistent with the National Contingency Plan.

(4) PROCEDURAL ERRORS.—In reviewing alleged procedural errors, the court may disallow costs or damages only if the errors were so serious and related to matters of such central relevance to the action that the action would have been significantly changed had such errors not been made.

SECTION 113 (K) OF CERCLA

(k) ADMINISTRATIVE RECORD AND PARTICIPATION PROCEDURES.—

(1) ADMINISTRATIVE RECORD.—The President shall establish an administrative record upon which the President shall base the selection of a response action. The administrative record shall be available to the public at or near the facility at issue. The President also may place duplicates of the administrative record at any other location.

(2) PARTICIPATION PROCEDURES.—

(A) REMOVAL ACTION.—The President shall promulgate regulations in accordance with chapter 5 of title 5 of the United States Code establishing procedures for the appropriate participation of interested persons in the development of the administrative record on which the President will base the selection of removal actions and on which judicial review of removal actions will be based.

(B) REMEDIAL ACTION.—The President shall provide for the participation of interested persons, including potentially responsible parties, in the development of the administrative record on which the President will base the selection of remedial actions and on which judicial review of remedial actions will be based. The procedures developed under this subparagraph shall include, at a minimum, each of the following:

(i) Notice to potentially affected persons and the public, which shall be accompanied by a brief analysis of the plan and alternative plans that were considered.

(ii) A reasonable opportunity to comment and provide information regarding the plan.

(iii) An opportunity for a public meeting in the affected area, in accordance with section 117(a)(2) (relating to public participation).

(iv) A response to each of the significant comments, criticisms, and new data submitted in written or oral presentations.

(v) A statement of the basis and purpose of the selected action.

For purposes of this subparagraph, the administrative record shall include all items developed and received under this subparagraph and all items described in the second sentence of section 117(d). The President shall promulgate regulations in accordance with chapter 5 of title 5 of the United States Code to carry out the requirements of this subparagraph.

(C) INTERIM RECORD.—Until such regulations under subparagraphs (A) and (B) are promulgated, the administrative record shall consist of all items developed and received pursuant to current procedures for selection of the response action, including procedures for the participation of interested parties and the public. The development of an administrative record and the selection of response action under this Act shall not include an adjudicatory hearing.

(D) POTENTIALLY RESPONSIBLE PARTIES.—The President shall make reasonable efforts to identify and notify potentially responsible parties as early as possible before selection of a response action. Nothing in this paragraph shall be construed to be a defense to liability.

MODEL FILE STRUCTURE

This model file structure may be used to compile an administrative record file for a remedial action, a removal action, or a combination of both remedial and removal actions. If the record documents a remedial action decision, section 2 of the file will contain only those removal action documents which (a) predate the remedial record of decision and (b) are relevant to the selection of the remedial action. If the record documents a removal action decision, sections 3, 4, and 5 of the file will contain only those remedial action documents which (a) predate the removal action memorandum and (b) are relevant to the selection of the removal action.

Justification is unnecessary for file categories without any documents. Those categories should be left out of the index.

A document should be filed in only one category, even if it falls into more than one category. It may be referenced in another category. If necessary, additional subcategories may be developed to accommodate documents not falling in any of the defined subcategories. Avoid adding categories of miscellaneous documents.

The correspondence subcategory can include comments and responses specific to the category. If the comments and responses are general in nature or address more than one category, they may be included in the public participation category.

1.0 SITE IDENTIFICATION

- 1.1 Background - RCRA and other information
- 1.2 Notification/Site Inspection Reports
- 1.3 Preliminary Assessment (PA) Report
- 1.4 Site Investigation (SI) Report
- 1.5 Previous Operable Unit Information

2.0 REMOVAL RESPONSE

- 2.1 Sampling and Analysis Plans
- 2.2 Sampling and Analysis Data/Chain of Custody Forms
- 2.3 EE/CA Approval Memorandum (for non-time-critical removals)
- 2.4 EE/CA
- 2.5 Action Memorandum
- 2.6 Amendments to Action Memorandum

3.0 REMEDIAL INVESTIGATION (RI)

- 3.1 Sampling and Analysis Plan (SAP)
- 3.2 Sampling and Analysis Data/Chain of Custody Forms
- 3.3 Work Plan
- 3.4 RI Reports

4.0 FEASIBILITY STUDY (FS)

- 4.1 ARAR Determinations
- 4.2 FS Reports
- 4.3 Proposed Plan
- 4.4 Supplements and Revisions to the Proposed Plan

5.0 RECORD OF DECISION (ROD)

- 5.1 ROD
- 5.2 Amendments to ROD
- 5.3 Explanations of Significant Differences

6.0 STATE COORDINATION

- 6.1 Cooperative Agreements/SMOAs

7.0 ENFORCEMENT

- 7.1 Enforcement History
- 7.2 Endangerment Assessments
- 7.3 Administrative Orders
- 7.4 Consent Decrees
- 7.5 Affidavits
- 7.6 Documentation of Technical Discussions with PRPs on Response Actions
- 7.7 Notice Letters and Responses

8.0 HEALTH ASSESSMENTS

- 8.1 ATSDR Health Assessments
- 8.2 Toxicological Profiles

9.0 NATURAL RESOURCE TRUSTEES

- 9.1 Notices Issued
- 9.2 Findings of Fact
- 9.3 Reports

10.0 PUBLIC PARTICIPATION

- 10.1 Comments and Responses
- 10.2 Community Relations Plan
- 10.3 Public Notice(s) (Availability of the Administrative Record File, Availability the Proposed Plan, Public Meetings)
- 10.4 Public Meeting Transcripts
- 10.5 Documentation of Other Public Meetings
- 10.6 Fact Sheets and Press Releases
- 10.7 Responsiveness Summary
- 10.8 Late Comments

11.0 TECHNICAL SOURCES AND GUIDANCE DOCUMENTS

- 11.1 EPA Headquarters Guidance
- 11.2 EPA Regional Guidance
- 11.3 State Guidance

MODEL INDEX

Attached is an excerpt of the Index of documents included in the Administrative Record for the Love Canal site. The Index lists the documents according to the EPA file structure (category number). The Index includes the following information fields:

DOCUMENT NUMBER....	indicates the first and last page numbers of the document. Both page numbers will be the same for one-page documents. In this particular index, the document number consists of a three letter site code followed by microfilm reel and frame numbers.
TITLE.....	indicates the title or an enhanced description of the document in parentheses.
AUTHOR.....	indicates the author or primary originator and the author's corporate affiliation.
RECIPIENT.....	indicates the addressee or primary recipient and the addressee's corporate affiliation.
DATE.....	indicates document date by month/day/year. / / means no date was available.
TYPE.....	indicates the document type.
CATEGORY.....	indicates the EPA file structure number.

MODEL POSITION DESCRIPTION FOR ADMINISTRATIVE RECORD COORDINATOR

INTRODUCTION

The incumbent serves as an Administrative Record Coordinator in one of the Regional offices of the Environmental Protection Agency (EPA). [Each Region may want to add an introduction to Superfund and the Regional office here.] The incumbent is responsible for compiling and maintaining administrative record files for CERCLA (Superfund) response action decisions.

Section 113(k) of CERCLA requires the establishment of an administrative record upon which the selection of a response action is based. Such a record is a compilation of all documents which the Agency considered or relied on in making its response action decision. Judicial review of any issues concerning the adequacy of any response action decision is limited to the administrative record. Public participation in the development of the record is required by law.

Establishment of thorough and complete administrative records is essential to EPA's Superfund program. Administrative records which include public participation and withstand judicial scrutiny allow EPA to meet its goals and objectives.

The incumbent will be responsible for compiling and maintaining administrative records for large numbers of Superfund sites. Each record requires coordination with many people including: Federal staff, state and local officials, private contractors, the general public and potentially responsible parties. Further responsibilities include deliberations over which materials to include in each record and requirements for dealing with privileged materials.

MAJOR DUTIES AND RESPONSIBILITIES

1. The incumbent is responsible for compiling and maintaining all of the administrative records for selection of CERCLA response actions for a Regional office of the EPA. The incumbent must have complete knowledge of all rules and procedures governing development of the administrative record files.
2. Receives and reviews all documents submitted by the Remedial Project Manager (RPM), On-Scene Coordinator (OSC), Office of Regional Counsel (ORC) and other appropriate staff for inclusion in the administrative record files. The incumbent will coordinate with staff responsible for deciding what documents are included in the record and will arrange for adding documents to the record file.

3. Compiles the administrative record file for each CERCLA response action. This includes logging the receipt of each document, maintaining a central master file of documents, redacting information from privileged documents as directed by ORC, maintaining any privileged portions of each record using Agency security measures, arranging for copying of documents in each record and transmitting the documents to appropriate repositories.
4. Coordinates the compilation of the administrative record files with state and federal agencies. This includes receiving records maintained by state and federal agencies and notifying appropriate personnel of these records for their review.
5. Maintains and updates (monthly) an index of each administrative record file in conformance with Agency guidelines.
6. Ensures public access to administrative record files. This includes notifying the public of the availability of the record, making the record available for public inspection, coordinating with personnel at the facility where the record is located, maintaining an adequate copying facility and maintaining a log of persons reviewing documents. The incumbent will have to respond to phone calls and visitors wanting information on and from the record. These functions will be coordinated with the Office of Public Affairs and Superfund Community Relations Coordinators.
7. Maintains the Regional Superfund Central Library of guidance documents and technical references.

CONTROLS OVER WORK

The incumbent works under the general supervision of the [Hazardous Waste Branch Chief]. An administrative record is reviewed and certified for litigation by a person designated by the Regional Administrator.

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APPENDIX E

COMPENDIUM OF CERCLA
RESPONSE SELECTION
GUIDANCE DOCUMENTS

USERS MANUAL

U. S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF WASTE PROGRAMS ENFORCEMENT

MAY 1989

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INDEX

1.0 INTRODUCTION

This manual describes how to use the "Compendium of CERCLA Response Selection Guidance Documents" (Compendium). Each U.S. Environmental Protection Agency (EPA) Regional Office maintains a compendium of guidance documents frequently used during development and selection of response actions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

EPA Headquarters used several sources to develop the initial Compendium. These sources included a pamphlet titled "Selected Technical Guidance for Superfund Projects" (OSWER Directive 9200.7-01); the OSWER Directive System; the Superfund, Resource Conservation and Recovery Act (RCRA), and Enforcement dockets; the Hazardous Waste Collection Database; and any existing regional compendiums. The documents in the Compendium are referenced in administrative records for decisions on selection of response actions.

The administrative record described here is the body of documents that form the basis for selection of a CERCLA response action. Establishment of the administrative record is required by §113(k) of CERCLA. An administrative record is the compilation of documents considered or relied on by EPA in making a decision. Documents that EPA anticipates will be included in the administrative record when the decision on a response action selection is made, are referred to as the "administrative record file." Guidance documents, or portions of guidance documents, that are considered or relied on in selecting a CERCLA response action should be part of an administrative record file.

Certain frequently used guidance documents may be referenced in the index to an administrative record but not physically included in the administrative record file. The reference should indicate the title and location of any documents included in the administrative record but maintained in the Compendium, which is kept at a central regional location. If a guidance document that is not listed in the Compendium is considered or relied on in selecting the response action, the document must be physically included in the administrative record file. The Compendium helps reduce the burden of copying and storing multiple copies of frequently used guidance documents.

Section 2.0 of this manual briefly discusses use of the Compendium by EPA personnel and the public. Section 3.0 discusses the Compendium's file and index structure. Documents in the Compendium are filed in three-ring binders and listed on an index which is generated by and

maintained on a computer database. Procedures for updating the Compendium are presented in Section 4.0.

2.0 OVERVIEW OF COMPENDIUM USE

The Compendium is intended for use by two groups: EPA personnel, during the process of response action selection and administrative record development, and the public, for review of documents referenced in the index to an administrative record.

The user should note that although the term "guidance" is often used in discussing the Compendium, it does not imply that only guidance documents are included. The documents may also be policies, memoranda, clarifications, case studies, manuals, handbooks, reports, and other documents used in the selection of CERCLA response actions.

2.1 USE BY EPA PERSONNEL

EPA personnel use the Compendium primarily to reference frequently used guidance documents that may be maintained in the Compendium rather than physically included in each administrative record file. The index must indicate which documents are physically located in the Compendium and must specify the location and accessibility of the Compendium. The index should also reference only the specific documents in the Compendium that were considered or relied on for the site for which the record is being compiled. The index should not reference the entire Compendium.

2.2 USE BY THE PUBLIC

As with any unrestricted document included in a record, the Compendium documents are accessible for public review. When EPA publishes a notice of availability of an administrative record file, that notice will include the location of the Compendium. The Compendium will be available for public viewing at a central regional establishment (for example, the EPA Regional Office), and ~~not at~~ or near the site for which the record is being compiled. (See Appendix A for a list of the location of each regional copy of the Compendium and the names of the Regional Administrative Record Coordinators.)

3.0 STRUCTURE OF THE COMPENDIUM

Currently, the Compendium is organized into 10 categories. An overview of the file structure is presented below, as well as a discussion of the index that identifies the documents included in the Compendium. This section also discusses the data elements identified in the index. The data elements provide vital information on the documents included in the Compendium and are contained in a database used to compile the Compendium and generate the index.

3.1 FILE STRUCTURE

The Compendium is structured according to 10 major categories that generally reflect the various components of a response action selection under CERCLA. Table 3-1 lists the current Compendium categories. The documents are further grouped into subcategories that indicate their more specific nature, when applicable. For example, the remedial investigation/feasibility study (RI/FS) section of the Compendium is broken down into more specific subcategories to identify the wide range of RI/FS documents available. When the documents apply to multiple categories, secondary references are provided in the Compendium index.

Each document has been assigned a unique four-digit document number. The bound documents contained in each category are arranged numerically. When a user wants to access a document, he or she will find the document filed according to the assigned number. The four-digit number series assigned to each category are also listed in Table 3-1.

3.2 INDEX STRUCTURE

When an administrative record index refers to a document contained in the Compendium, that document is also identified in the Compendium index. The index, contained as the first document in the Compendium, provides the information necessary to identify and locate the desired documents. (For a copy of the current Compendium index, see Appendix B.)

Because in most cases the user will know the title of the document rather than the number assigned, the index lists the documents under each category in alphabetical order. An alphabetical listing of secondary references follows the primary documents listed under each category.

TABLE 3-1
COMPENDIUM CATEGORIES AND NUMBER SERIES

CATEGORIES	NUMBER SERIES
Index	0000
Pre-Remedial	0001-0999
Removal Action	1000-1999
Remedial Investigation/ Feasibility Study	2000-2999
General	2000-2099
RI Data Quality/Site & Waste Assessment	2100-2199
Land Disposal Facility Technology	2200-2299
Other Technologies	2300-2399
Groundwater Monitoring & Protection	2400-2499
ARARs ¹	3000-3999
Water Quality	4000-4999
Risk Assessment	5000-5999
Cost Analysis	6000-6999
Community Relations	7000-7999
Enforcement	8000-8999
Selection of Remedy/Decision Documents	9000-9999

¹ Applicable or Relevant and Appropriate Requirements

The Compendium index is maintained on a database using dBASE III Plus software. This database contains numerous data elements that store the information distinguishing and grouping each document into the appropriate categories. The database is currently maintained at EPA Headquarters.

Maintaining the index in a database allows the information to be organized in different ways. For example, should the Region need an index that is sorted entirely in alphabetical order by title, chronologically by document date, numerically by the number assigned each document, etc., EPA Headquarters can generate and forward such an index. The data elements of the Compendium database, as identified on the index, are included in Appendix B.

4.0 UPDATING THE COMPENDIUM

The Compendium is designed to allow for the periodic addition of newly developed policy or guidance documents. Updates to the Compendium are necessary in the following cases: (1) EPA releases relevant new guidance, policy, reports, etc.; (2) regional staff find additional documents that should be included in the Compendium; and (3) existing documents are revised or superseded. EPA Headquarters will continue to monitor the information sources used to develop the initial Compendium for new or revised documents that may qualify for inclusion in the Compendium.

Guidance documents identified for addition to the Compendium will be reviewed and relevant information will be entered into the existing database. After the database is updated, a new index will be generated and sent to each Regional Office. This new index will replace any previous indices. Hard copies of the additional documents will be sent to each region for inclusion in the Compendium. The revised index will indicate the category for each new document.

4.1 REGIONAL INPUT

Parties involved in the response action selection process, as well as Administrative Record Coordinators, may find documents that are frequently included in administrative records but are not referenced in the Compendium. In such cases it may be desirable to include the documents in the Compendium as part of the updating process. However, since the Compendium is designed to be nationally applicable, only documents used frequently in different regions will be included. Any region-specific document should be maintained in separate regional files and not in the Compendium.

4.2

KEEPING THE COMPENDIUM CURRENT

Once a document is included in the Compendium, it will remain in the Compendium to maintain the integrity of any record that refers to it. However, documents contained in the Compendium may be revised in the future to reflect changes, for example, changes in policy, technology, or law. The most current version of these documents will be added to the Compendium, as appropriate, so that they will be available for the administrative record process.

Although no document included in the Compendium will ever be replaced or removed once an administrative record index refers to it, those documents that are superseded will be flagged and identified on a separate index (superseded index) attached to the Compendium's main index. The superseded index will also identify the corresponding revised version added to the Compendium to indicate the new document that should be used.

Response action selections frequently rely on technical data generated at Superfund sites across the country. Such data is often maintained on national databases. Depending on their use and availability, certain of these databases may be included in the Compendium. For example, the Public Health Risk Evaluation Database (PHRED) is part of the Compendium. PHRED is stored on two floppy diskettes that are regularly updated as additional information becomes available. Whenever updated PHRED diskettes are generated, they will be added to the Compendium. Those diskettes that were previously included will also remain in the Compendium and will be identified on the superseded index.

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(APPENDIX A)

REGIONAL COMPENDIUM LOCATIONS AND ADMINISTRATIVE RECORD COORDINATORS

<u>Region</u>	<u>Address</u>	Coordinator/PH # 1. Remedial 2. Removal
I	90 Canal Street Boston, MA 02203	1. Brenda Haslett (617) 573-1759 FTS 833-1759
	60 Westview Street *	2. Pam Bruno (617) 860-4309
II	26 Federal Plaza New York, NY 10278	1. Jenny Delcimento (212) 264-8676 FTS 264-8676
	Woodbridge Avenue * Raritan Depot - Bldg 10 Edison, NJ 08837	2. Norman Vogelsang (201) 321-6657 FTS 340-6657
III	841 Chestnut Street Philadelphia, PA 19107	1. Margaret Leva (215) 597-3037 FTS 597-3037
		2. Joan Henry (215) 597-2711 FTS 597-2711
IV	345 Courtland Street, N.E. Atlanta, GA 30365	1. Debbie Jourdan (404) 347-2930 FTS 257-2930
		2. Same
V	230 South Dearborn Street Chicago, IL 60604	1. Jamie Bell FTS 353-7446
		2. Jan Pfundheller FTS 353-7626
VI	1445 Ross Avenue 12th Floor, Suite 1200 Dallas, TX 75270	1. Karen Witten (214) 655-6720 FTS 255-6720
		2. Joann Woods (214) 655-2270 FTS 255-2270

* The Compendium was initially distributed to remedial Administrative Record Coordinators only. Copies may be located at this address.

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(APPENDIX B)

COMPENDIUM OF CERCLA
RESPONSE SELECTION
GUIDANCE DOCUMENTS

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<u>Region</u>	<u>Address</u>	Coordinator/PH # 1. Remedial 2. Removal
VII	726 Minnesota Avenue Kansas City, KS 66101	1. Barry Thierer FTS 276-7052
	25 Funston Road * Kansas City, KS 66115	2. Helen Bennett (913)236-3881 FTS 757-3881
VIII	999 18th Street Suite 500 Denver, CO 80202	1. Carole Macy FTS 330-1281
		2. Tina Ardemus FTS 330-7039
IX	215 Fremont Street San Francisco, CA 94105	1. Tom Mix FTS 484-1960 Don Briggs FTS 556-6637
		2. Holly Hadlock (415)768-1354
X	1200 Sixth Avenue Seattle , WA 98101	1. Lynn Williams (206)442-2121 FTS 399-2121
		2. Same

* The Compendium was initially distributed to remedial Administrative Record Coordinators only. Copies may not be located at this address.

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<u>Category - Subcategory</u>	<u>Number Series*</u>	<u>Page</u>
Pre-Remedial	0001-0002	1
Removal Action	1000-1008	1
RI/FS - General	2000-2012	2
RI/FS - RI Data Quality/Site & Waste Assessment	2100-2119	2
RI/FS - Land Disposal Facility Technology	2200-2212	4
RI/FS - Other Technologies	2300-2320	5
RI/FS - Ground-Water Monitoring & Protection	2400-2408	7
ARARs	3000-3005	8
Water Quality	4000-4003	9
Risk Assessment	5000-5015	9
Cost Analysis	6000-6001	11
Community Relations	7000-7000	11
Enforcement	8000-8001	12
Selection of Remedy /Decision Documents	9000-9001	12
Data Element Definitions		

List of Organizational Abbreviations and Acronyms Identified in the Index

*The range for each number series identified represents the numbers assigned to those documents currently in the Compendium.

PAGE NO. 1
05/16/89

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COMPENDIUM OF CERCLA RESPONSE SELECTION GUIDANCE DOCUMENTS

Doc	NO	Vol Title	Date	Authors	Status	Pages	Her	Attachments
0000	1	INDEX TO COMPENDIUM OF CERCLA RESPONSE SELECTION GUIDANCE DOCUMENTS	05/01/89	ONPE	Final	6		1) DATA ELEMENT DEFINITIONS 2) ORGANIZATIONAL ABBREVIATIONS AND ACRONYMS 3) DEFINITIONS OF TERMS
00		Pic Remedial						
0001	1	EXPANDED SITE INSPECTION TRANSITIONAL GUIDANCE FOR FY-88	10/01/87	CERCL	Final	74	2	
0002	1	PRELIMINARY ASSESSMENT GUIDANCE FISCAL YEAR 1990	01/01/88	CERCL/EC	Final	63	7	
00		Removal Action						
1000	1	CERCLA REMEDIAL ACTIONS AT WASTE RELEASE SITES	01/23/86	LONGEST, H.L./OUR	Final	2	2	
1001	1	COSTS OF REMEDIAL RESPONSE ACTIONS AT UNCONTROLLED HAZARDOUS WASTE SITES	01/01/81	RISHEL, H.L., ET AL /SCS INC/INTERS	Final	164	1	
1002	1	EMERGENCY RESPONSE PROCEDURES FOR CONTROL OF HAZARDOUS SUBSTANCE RELEASES	01/01/83	MELVOLD, R.W./ROCKWELL INTERNATIONAL	Final	23	1	
1003	1	ENVIRONMENTAL REVIEW REQUIREMENTS FOR REMEDIAL ACTIONS	04/13/87	CERCL/ERO	Final	6	2	
1004	1	GUIDANCE ON IMPLEMENTATION OF THE "CONTRIBUTOR TO REMEDIAL PERFORMANCE" PROVISION	04/06/87	CERCL	Final	6	2	
1008	2	GUIDANCE ON NON-HAZARDOUS REMEDIAL ACTIONS INVOLVING NATIONALLY SIGNIFICANT OR PRIORITY SETTING ISSUES	04/03/89	LONGEST, H.L./OUR	Final	6	2	
1005	1	INFORMATION ON DRINKING WATER ACTION LEVELS	04/19/88	FIELDS, JR., T./CERCL/ERO	Final	2	1	
1006	1	SPRINT REMEDIAL PROCEDURES, REVISION #3	02/01/88	CERCL/OUR	Final	365	1	
1007	1	THE ROLE OF EXPEDITED RESPONSE ACTIONS UNDER SARA	04/21/87	LONGEST, H.L./OUR	Final	6	2	
4002	26	INTERIM FINAL GUIDANCE ON REMEDIAL ACTION LEVELS AT CONTAMINATED DRINKING WATER (Necessity Reference)	10/06/87	CERCL/OUR	Final	3	2	
6000	1	WASTE MANAGEMENT UNIT (Waste Management Unit Reference)	08/10/80	CERCL/OUR	Final	1	1	

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INDEX -
COMPENDIUM OF CERCLA RESPONSE SELECTION DOCUMENTS

DOC NO	Vol Title	Date	Authors	Status	Pages	Iter	Attachments
2000	2 CASE STUDIES 1-23 REMEDIAL RESPONSE AT HAZARDOUS WASTE SITES	03/01/84	CHRYSLER/MERL - OSHER/OSHR	Final	830	1	
2001	3 EPA GUIDE FOR MINIMIZING THE ADVERSE ENVIRONMENTAL EFFECTS OF CLEANUP OF UNCONTROLLED HAZARDOUS-WASTE SITES	06/01/85	ENVIRONMENTAL RESEARCH LABORATORY	Final	250	2	
2002	3 GUIDANCE FOR CONDUCTING REMEDIAL INVESTIGATIONS AND FEASIBILITY STUDIES UNDER CERCLA	10/01/88	OSHR/OSHR	Final	300	1	
2003	3 JOINT CERCLA/EPA GUIDANCE	06/24/83	CERCLA/PAS	Final	42	2	
2004	4 MODELING REMEDIAL ACTIONS AT UNCONTROLLED HAZARDOUS WASTE SITES (VOL 1-1V)	04/01/85	BOLWELL, S.H., ET AL./ANDERSON/NICHOLS AND CO - OSHER/OSHR - AMMON, D.C. AND BOLWELL, JR. T O AMERL	Final	350	1	
2005	4 POLICY IN FIELD PLANS AND ASSESSMENTS FOR CERCLA ACTIONS	08/01/85	HELMAN, JR., W.M./OSHR - LUCERO, G./OSHR	Final	9	2	
2006	4 REMEDIAL RESPONSE AT HAZARDOUS WASTE SITES: SUMMARY REPORT	03/01/84	CHRYSLER	Final	95	1	
2007	4 REVISED PROCEDURES FOR IMPLEMENTING OFF-SITE RESPONSE ACTIONS	11/13/87	PORTER, J.W./OSHR	Final	20	2	
2008	4 RI/FS IMPROVEMENTS	07/23/87	LOXEST, H.L./OSHR	Final	11	2	1) RI/FS IMPROVEMENTS
2009	4 RI/FS IMPROVEMENTS FOLLOW-UP	04/25/88	LOXEST, H.L./OSHR	Final	16	2	1) RI/FS IMPROVEMENTS FOLLOW-UP 2) REMEDIAL INFORMATION REQUESTER ACTIVITIES
2010	4 SUPERFUND FEDERAL-LEAD REMEDIAL PROJECT MANAGEMENT HANDBOOK	12/01/86	OSHR	Draft	179	1	
2011	5 SUPERFUND REMEDIAL DESIGN AND REMEDIAL ACTION GUIDANCE	06/01/86	OSHR	Final	100	1	
2012	5 SUPERFUND STATE-LEAD REMEDIAL PROJECT MANAGEMENT HANDBOOK	12/01/86	OSHR	Final	120	1	
2100	5 A COMPENDIUM OF SUPERFUND FIELD OPERATIONS METHODS	12/01/87	OSHR - OSHR	Final	550	1	
2101	6 DATA QUALITY OBJECTIVES FOR REMEDIAL RESPONSE ACTIVITIES: DEVELOPMENT PROCESS	03/01/87	OSHR FEDERAL PROGRAMS GROUP - ANDERSON/COLE	Final	150	1	

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2102	6	DATA QUALITY OBJECTIVES FOR REMEDIAL ACTIVITIES: EXAMPLE 03/01/87 - CERCLA FEDERAL PROGRAMS CORP SCENARIO: RI/IS ACTIVITIES AT A SITE OF CONTAMINATED SOILS AND GROUNDWATER			Final	120	1		EXEMPT 09/28/89
2103	6	IN SITU AND IN VITRO OF HAZARDOUS WASTE REACTIVITY TESTING METHODS	02/01/84	WILBARD, C.D., ET AL /MILITARY CORP - BARKLEY, N /MIL	Final	150	1		EPA (44) 2 84/21
2104	6	FIELD SCREENING FOR ORGANIC CONTAMINANTS IN SAMPLES FROM HAZARDOUS WASTE SITES	04/02/86	ROFFMAN, H.K., ET AL /ALUS CORP - CARTER, A /MICHIGAN DEPT OF NATURAL RESOURCES - THOMAS, T /EPA	Final	11	2	1) MEMO FIELD SCREENING FOR ORGANIC CONTAMINANTS	
2105	6	FIELD SCREENING METHODS CATALOG: USER'S GUIDE	09/01/88	- DERAGARD	Final	90	1		EPA/540/2 88/015
2106	6	FIELD STANDARD OPERATING PROCEDURES MANUAL 04-SITE ENTRY	01/01/85	- DERAGARD	Final	29	2		EXEMPT 09/28/89
2107	7	FIELD STANDARD OPERATING PROCEDURES MANUAL 04-WORK ZONES	04/01/85	- DERAGARD	Final	19	2		EXEMPT 09/28/89
2108	7	FIELD STANDARD OPERATING PROCEDURES MANUAL 08-AIR SURVEILLANCE	01/01/85	- DERAGARD	Final	24	2		EXEMPT 09/28/89
2109	7	FIELD STANDARD OPERATING PROCEDURES MANUAL 09-SITE SAFETY PLAN	04/01/85	- DERAGARD	Final	26	2	1) SAMPLE SITE SAFETY PLAN AND CERCLA SAFETY PLAN 2) EMERGENCY OPERATING PROCEDURES FINAL TIME MONITOR 3) RESPONSE SAFETY CHECK LIST 08/11	EXEMPT 09/28/89
2110	7	GEOMORPHICAL METHODS FOR LOCATING ABANDONED WELLS	07/01/84	FRISVOLD, L.M., ET AL /ALUS GEOLOGICAL SURVEY - VANCE, J.J./EPA	Final	211	1		EPA 600/4 84/105
2111	7	GEOMORPHICAL TECHNIQUES FOR SORTING BURIED WASTES AND WASTE MICROTREN	06/01/84	BEDSON, R.C., ET AL /TECHNOS, INC - VANCE, J.J./EPA	Final	236	1		EPA 600/7 84/21
2112	8	GUIDELINES AND SPECIFICATIONS FOR PREPARING QUALITY ASSURANCE PROGRAM DOCUMENTATION	06/01/87	- DERAGARD QUALITY ASSURANCE MANAGEMENT STATE FINAL	Final	31	2	1) MEMO QUALITY ASSURANCE MANAGEMENT, LMSYS DATED 6/10/87	
2113	8	LABORATORY DATA VALIDATION FUNCTIONAL GUIDELINES FOR EVALUATING INORGANICS ANALYSES	07/01/88	EPA DATA REVIEW WORK GROUP - BREYER, R /VIAM AND CD /SAMPLE MEMO OFFICE - 16ED	Draft	20	2		
2114	8	LABORATORY DATA VALIDATION FUNCTIONAL GUIDELINES FOR EVALUATING ORGANICS ANALYSES	07/01/88	BREYER, R /VIAM AND CD /SAMPLE MEMO OFFICE - EPA DATA REVIEW WORKGROUP - 16ED	Draft	45	2		

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2115	0 PRACTICAL GUIDE FOR ORLANDO-WATER SAMPLING	09/01/85	BARCELONA, M. J., ET AL. / ILLINOIS STATE WATER SURVEY	Final	175	1	IP/600/2 85/100
2116	0 SEDIMENT SAMPLING QUALITY ASSURANCE USER'S GUIDE	07/01/85	SCALF, M.R. / ORD/URL BARTH, D.S. & STARKS, T.S. / UNIV OF NEV, LAS VEGAS	Final	120	1	IP/600/2 85/100
2117	0 SOIL SAMPLING QUALITY ASSURANCE USER'S GUIDE	05/01/84	BROWN, K.W. / EARD BARTH, D.S. & WASON, B.J. / UNIV OF NEVADA, LAS VEGAS	Final	104	1	IP/600/4 84/101
2118	9+ TEST METHODS FOR EVALUATING SOLID WASTE, LABORATORY MANUAL PHYSICAL/CHEMICAL METHODS, THIRD EDITION (VOLUMES 1A, 1B, 1C, AND 1D)	11/01/86	BROWN, K. / ORD/EARD OTHER	Final	3000	1	
2119	11 USER'S GUIDE TO THE CONTRACT LABORATORY PROGRAM	12/01/88	CERR/COLP SAMPLE MANAGEMENT OFFICE	Final	220	2	CDMLR 89240 11 1
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2200	12 COVERS FOR UNCONTROLLED HAZARDOUS WASTE SITES	09/01/85	MCNENY, C.C., ET AL. / U.S. COE/RES TOLURCOFF, J.M. / MERL	Final	475	2	IP/6540/2 85/101
2201	13 DESIGN, CONSTRUCTION, AND EVALUATION OF CLAY LINERS FOR WASTE MANAGEMENT FACILITIES	11/01/88	COLDMAN, J.L., ET AL. / U.S. ROULTER, M.H. / MERL	Final	500	2	IP/6530/2 88/101
2202	13 EVALUATING COVER SYSTEMS FOR SOLID AND HAZARDOUS WASTE	09/01/82	LUTON, R.J. / U.S.A. COE/RES LACROIX, R.E. / MERL	Final	58	2	CDMLR 89106/2 89 1
2203	13 GUIDANCE MANUAL FOR MINIMIZING POLLUTION FROM WASTE DISPOSAL SITES	08/01/78	TOLMAN, A.L., ET AL. / A.W. MARTIN ASSOCIATES, INC.	Final	83	1	IP/600/2 78 142
2204	13 LAND DISPOSAL RESTRICTIONS	08/11/87	SANNING, D.E. / MERL LONCEST, H.L. / OLUR LUCERO, G. / OLPE	Final	23	2	1) SUMMARY OF MAJOR LER PROVISIONS AND CALIFORNIA LIST PROHIBITIONS 2) OTHER AFFECTS CITED ARE AVAILABLE IN

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2205	14 LINDING OF WASTE CONTAINMENT AND OTHER IMPROVEMENT FACILITIES	09/01/88	- MAIRCOX, INC. - LANDRETH, R. /ORD/RISK REDUCTION ENGINEERING LAB	Final	950	2	FILED REC.
2206	15 LINDING OF WASTE IMPROVEMENT AND DISPOSAL FACILITIES	03/01/83	- LANDRETH, R. /MERL	Final	480	2	
2207	15 PROCEDURES FOR MODELING FLOW THROUGH CLAY LINERS TO DETERMINE REQUIRED LINER THICKNESS	01/01/84	- OSW	Draft	145	2	
2208	15 RURA GUIDANCE DOCUMENT: LANDFILL DESIGN LINER SYSTEMS AND FINAL COVER	07/01/82	- EPA	Draft	30	2	
2209	15 SETTLEMENT AND COVER SUBSIDENCE OF HAZARDOUS WASTE LANDFILLS: PROJECT SUMMARY	05/01/85	- MARRAS, W.L. - GILBERT, P.A.	Final	4	2	EPA 600/2-85/015
2210	15 SUPPLEMENTARY GUIDANCE ON DETERMINING LINER/LEACHATE COLLECTION SYSTEM COMPATIBILITY	08/07/86	- WEDDE, B.R. /PERMITS AND STATE PROGRAMS DIV	Final	60	2	1) ANALYSIS NOT IN INTERIM REPORT UNREVIEWED & EXCLUDED FROM THE HAZARDOUS WASTE MAINTENANCE 2) SEC. 3019 INTERIM FINAL MATERIALS ASSESSMENTS
2211	15 TECHNICAL GUIDANCE DOCUMENT: CONSTRUCTION QUALITY ASSURANCE FOR HAZARDOUS WASTE LAND DISPOSAL FACILITIES	10/01/86	- FERRARI, J. C. /MERL/AND ISOLATION CONTROL DIV.	Final	88	2	CRMR 894/2-011
2212	15 TREATMENT OF REACTIVE WASTES AT HAZARDOUS WASTE LANDFILLS: PROJECT SUMMARY	01/01/84	- OSW - SKINNER, D. ET AL /ARLORD LITTLE, INC.	Final	4	2	EPA/600/2-84/011
3000	25 APPLICABILITY OF THE FEDERAL MINIMUM TECHNICAL REQUIREMENTS RESPECTING LINERS AND LEACHATE COLLECTION SYSTEMS (Secondary Reference)	04/01/85	- LANDRETH, R. /MERL - SKINNER, J. /OSW	Final	3	2	CRMR 894/2-011/01
2200	16 A COMPILED OF TECHNOLOGIES USED IN THE TREATMENT OF HAZARDOUS WASTES	09/01/87	- ORD/CERI	Final	49	2	EPA/600/2-87/014

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2301	16 CERCLA ALLOCATION FORMS FOR REMEDIATION	04/01/80	TYBBS, R A /MERL CLON, J M /MERL	Final	371	2	
2302	17 UNDERSTANDING THE BOOK FOR HAZARDOUS WASTE INCINERATION	09/01/81	BONER, T A., ET AL /MUNSTADT RESEARCH CORP.	Final	445	2	
2303	17 EPA GUIDE FOR IDENTIFYING CLEANUP ALTERNATIVES AT HAZARDOUS WASTE SITES AND SPILLS: BIOLOGICAL TREATMENT		- CERBACKER, D A /OET - PACIFIC NORTHWEST LABORATORY - RANIERE, L C /CORVALLIS ENVIRONMENTAL RESEARCH LAB	Final	120	2	
2304	17 EPA GUIDE FOR INFECTIOUS WASTE MANAGEMENT	05/01/86	- CERBACKER	Final	75	2	
2305	17 GUIDANCE MANUAL FOR CLEANUP OF SURFACE INCINERATION SITES	06/01/86	- CLAWSON/CLAWSON / WISN - BART, E /OER	Final	19	1	
2306	17 GUIDANCE DOCUMENT FOR CLEANUP OF SURFACE TANK AND DRUM SITES	05/20/85	- CLAWSON/CLAWSON / WESTON/C JONSON	Final	135	1	
2307	18 HANDBOOK FOR EVALUATING REMEDIAL ACTION TECHNOLOGY PLANS	08/01/83	- BART, E AND BAKER, B /OER - BRENNED, J AND BASS, J /MILLER D LITTLE INC.	Final	439	1	
2308	18 HANDBOOK FOR STABILIZATION/SOLIDIFICATION OF HAZARDOUS WASTE	06/01/86	- PARDON, H R /MERL - CLANNON JR., M J ET AL /U S OE /ES	Final	125	1	
2309	19 HANDBOOK REMEDIAL ACTION AT WASTE DISPOSAL SITES (REVISED)	10/01/85	- FOURCROD, J M /ORDAMERL - CERBACKER	Final	560	1	
2310	20 LEADWATE PLUME MANAGEMENT	11/01/85	- REPO, E AND KUS, C /RBB ASSOCIATES - BARKLEY, M /EPA	Final	590	1	
2311	20 MOBILE TREATMENT TECHNOLOGIES FOR SUPERFUND WASTES	09/01/86	- CAMP, DRESSER, AND MCKEE INC - GALT, L D /ARSD	Final	100	1	
2312	21 PRACTICAL GUIDE-TRIAL PLANS FOR HAZARDOUS WASTE INCINERATORS	04/01/86	- COWAN, P., ET AL /MIDWEST RESEARCH INSTITUTE	Final	63	2	
2313	21 PRACTICAL GUIDE-TRIAL PLANS FOR HAZARDOUS WASTE INCINERATORS, PROJECT SUMMARY	07/01/86	- CERBACKER, D A /MERL - COWAN, P., ET AL /MIDWEST RESEARCH INSTITUTE - CERBACKER, D A /MERL	Final	2	1	

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2314	21 PROHIBITION ON THE PLACEMENT OF BLACK LIQUID HAZARDOUS WASTE IN LANDFILLS-STARBUCK INTERPRETIVE GUIDANCE	06/11/86	OSMER/OSM	Final	35	1	1) MEMO RE SAME SUBJECT FROM WILLIAMS M E /OSM
2315	21 REVIEW OF IN-PLACE TREATMENT TECHNIQUES FOR CONTAMINATED SURFACE SOILS-VOL. 2 BACKGROUND INFORMATION FOR IN-SITU TREATMENT	11/01/84	SIMS, R. C., ET AL. /RBB ASSOCIATES - BARKLEY, M /MERL	Final	350	1	
2316	21 REVIEW OF IN-PLACE TREATMENT TECHNIQUES FOR CONTAMINATED SURFACE SOILS-VOL. 1 TECHNICAL EVALUATION	09/19/84	OSMER/OSM - OSRD/MERL	Final	165	1	
2317	22 SLURRY TRENCH CONSTRUCTION FOR POLLUTION MIGRATION CONTROL	01/01/84	OSM	Final	220	1	
2318	22 SYSTEMS TO ACCELERATE IN SITU STABILIZATION OF WASTE DEPOSITS	09/01/86	MAJIBER, M., ET AL. /ENVIRONMENTAL CD - OSRD, W A /MERL	Final	265	1	
2319	22 TECHNOLOGY SCREENING GUIDE FOR TREATMENT OF CERCLA SOILS AND SLUDGES	09/01/88	OSMER/OSM	Final	130	1	
2320	22 TREATMENT TECHNOLOGY BRIEFS: ALTERNATIVES TO HAZARDOUS WASTE LANDFILLS	07/01/86	1MERL	Final	35	2	
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2400	23 CRITERIA FOR IDENTIFYING AREAS OF VULNERABLE HYDROGEOLOGY UNDER RORA STARBUCK INTERPRETIVE GUIDANCE	07/01/86	OSMER/OSM	Final	950	2	
2401	24 FINAL RORA COMPREHENSIVE GROUND-WATER MONITORING EVALUATION (OME) GUIDANCE DOCUMENT	12/19/86	LUZIO, G A /OSPE	Final	55	2	1) RELATIONSHIP OF TECHNICAL INTERFACES TO GROUND WATER PERFORMANCE STANDARDS
2402	24 GROUND-WATER MONITORING AT CLEAN-CLOSING SURFACE ENCLOSURE AND WASTE PILE UNITS	03/31/88	PORTER, J W /OSM	Final	3	2	
2403	24 GROUND-WATER PROTECTION STRATEGY	08/01/84	OFFICE OF GROUND-WATER PROTECTION	Final	65	2	
2404	24 GUIDELINES FOR GROUND-WATER CLASSIFICATION UNDER THE EPA GROUND-WATER PROTECTION STRATEGY	12/01/86	OFFICE OF GROUND-WATER PROTECTION	Final	600	2	
2405	24 OPERATION AND MAINTENANCE INSPECTION GUIDE (RORA GROUND-WATER MONITORING SYSTEMS)	03/30/88	OSMER/OSPE/RORA ENVIRONMENT DIVISION	Final	50	2	1) INCONSISTENT MATERIAL SAME SUBJECT

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2208	15 RURA GUIDANCE DOCUMENT: LANDFILL DESIGN UNDER SYSTEMS AND FINAL COVER (Secondary Reference)	07/01/82	EPA	Final	30	2		
9001	32 RURA/CERCLA DECISIONS MADE ON REMEDY SELECTION (Secondary Reference)	06/24/85	KILPATRICK, M	Final	1	2		
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4000	26 ALTERNATE CONCENTRATION LIMIT GUIDANCE PART 1, AQL POLICY AND INFORMATION REQUIREMENTS	07/01/87	OSWALD	Final	124	2		(CDMR #248) 10/16
4001	26 GUIDANCE DOCUMENT FOR PROVIDING ALTERNATE WATER SUPPLIES	07/01/88	CEHR	Final	64	2		(CDMR #9155) 1/10
4002	26 INTERIM FINAL GUIDANCE ON REMOVAL ACTION LEVELS AT CONTAMINATED DRINKING WATER SITES	10/06/87	OSWALD	Final	9	2		(CDMR #248) 1/10
4003	26 QUALITY CRITERIA FOR WATER 1986	05/01/87	OFFICE OF WATER REGULATIONS AND STANDARDS	Final	325	2		11/2/80/5 8/6/87
2301	16 CARBON ADSORPTION ISOTHERMS FOR IONIC ORGANICS (Secondary Reference)	04/01/80	COBBS, R A /MERL COHEN, J M /MERL	Final	321	2		11/2/80/8 8/6/87
1005	1 INFORMATION ON DRINKING WATER ACTION LEVELS (Secondary Reference)	04/19/88	FIELDS, JR., T /OSWALD/ERD	Final	17	2	1) MEMO: RELEASES FROM LAURELLY APPLIED PESTICIDES 2) MEMO: FIELD DEMONSTRATION 3) GUIDANCE FOR DRINKING WATER IN DRINKING WATER	
.. Risk Assessment								
5000	27 AIRBORNE HEALTH ASSESSMENTS ON NPL SITES	06/16/86	DEPT. OF HEALTH AND HUMAN SERVICES/ATSDR	Final	14	2		(CDMR #248) 1
5001	27 CHEMICAL, PHYSICAL & BIOLOGICAL PROPERTIES OF COMPOUNDS PRESENT AT HAZARDOUS WASTE SITES	09/27/85	CLEMENT ASSOCIATES, INC	Final	330	2		(CDMR #248) 4/12
5002	27 FINAL GUIDANCE FOR THE COORDINATION OF AIRBORNE HEALTH ASSESSMENT ACTIVITIES WITH THE SUPERFUND REMEDIAL PROCESS	05/14/87	FURTER, J M /OSWALD/ATSDR	Final	22	2	1) SAME TITLE DATED 4/12/87	
5003	27 GUIDELINES FOR CARCINOGEN RISK ASSESSMENT (FEDERAL REGISTER, SEPTEMBER 24, 1986, P. 33992)	09/24/86	EPA	Final	13	2		

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2406	24 PROTOCOL FOR GROUND-WATER EVALUATION	09/01/86	HAZARDOUS WASTE GROUND-WATER TASK FORCE	Final	200	2	
2407	25 RCRA GROUND-WATER MONITORING TECHNICAL ENFORCEMENT GUIDANCE DOCUMENT (TECD)	09/01/86	EPA	Final	270	2	
2408	25 RCRA GROUND-WATER MONITORING TECHNICAL ENFORCEMENT GUIDANCE DOCUMENT, TECD: EXECUTIVE SUMMARY	07/01/87	LUCERO, G.A./OWPE	Final	8	1	
3000	25 APPLICABILITY OF THE 1984 MINIMAL TECHNICAL REQUIREMENTS RESPECTING LINERS AND LEACHATE COLLECTION SYSTEMS	04/01/85	SKINNER, J./OSW	Final	3	2	
3001	25 CERCLA COMPLIANCE WITH OTHER ENVIRONMENTAL STATUTES	10/02/85	PORTER, J.W./OSW	Final	19	1	1) POTENTIALLY APPLICABLE (R RELIANT) AND APPROPRIATE REQUIREMENTS
3002	25 CERCLA COMPLIANCE WITH OTHER LAWS MANUAL	08/08/86	OSW	Draft	245	2	
3003	25 EPA'S IMPLEMENTATION OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986	05/21/87	THOMAS, L.M./EPA	Final	4	2	
3004	25 GUIDANCE MANUAL ON THE RCRA REGULATION OF RECYCLED HAZARDOUS WASTES	03/01/86	INDUSTRIAL ECONOMICS, INC - OSW	Final	350	2	
3005	25 INTERIM RCRA/CERCLA GUIDANCE ON NON-CONVULSIBLE SITES AND ON-SITE MANAGEMENT OF WASTE AND TREATMENT RESIDUE	03/27/86	PORTER, J.W./OSW	Final	8	2	1) CERCLA/RCRA/HAZARDOUS WASTE SITES FOR REM ACTION
2400	23 CRITERIA FOR IDENTIFYING AREAS OF VULNERABLE HYDROGEOLOGY UNDER RCRA: STAIRWAY INTERPRETIVE GUIDANCE [Secondary Reference]	07/01/86	OSW/OSW	Final	950	2	
2401	24 FINAL RCRA COMPREHENSIVE GROUND-WATER MONITORING EVALUATION (OWE) GUIDANCE DOCUMENT [Secondary Reference]	12/19/86	LUCERO, G.A./OWPE	Final	55	2	1) RELATIONSHIP OF TECHNICAL REQUIREMENTS TO GROUND-WATER PERFORMANCE STANDARDS
2405	24 OPERATION AND MAINTENANCE INSPECTION GUIDE (RCRA GROUND-WATER MONITORING SYSTEMS) [Secondary Reference]	03/30/88	OSW/OWPE/RCRA ENFORCEMENT DIVISION	Final	50	2	1) INFORMATIONAL MATERIAL SAME SUBJECT
2407	25 RCRA GROUND-WATER MONITORING TECHNICAL ENFORCEMENT GUIDANCE DOCUMENT (TECD) [Secondary Reference]	09/01/86	EPA	Final	270	2	
2408	25 RCRA GROUND-WATER MONITORING TECHNICAL ENFORCEMENT GUIDANCE DOCUMENT, TECD: EXECUTIVE SUMMARY [Secondary Reference]	07/01/87	LUCERO, G.A./OWPE	Final	8	1	

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5005	27 GUIDELINES FOR HEALTH ASSESSMENT OF SUSPECT DEVELOPMENTAL TOXICANTS (FEDERAL REGISTER, SEPTEMBER 24, 1986, P. 34028)	09/24/86	EPA	Final	14	2	
5006	27 GUIDELINES FOR MUTAGENICITY RISK ASSESSMENT (FEDERAL REGISTER, SEPTEMBER, 24, P. 34004)	09/24/86	EPA	Final	8	2	
5007	27 GUIDELINES FOR THE HEALTH RISK ASSESSMENT OF CHEMICAL MIXTURES (FEDERAL REGISTER, SEPTEMBER 24, 1986, P. 34014)	09/24/86	EPA	Final	13	2	
5008	28 HEALTH EFFECTS ASSESSMENT DOCUMENTS (34 CHEMICAL PROFILES) VOL 28: ACETONE, ARSENIC, ASBESTOS, BARIUM, BENZ(A)PYRENE, CADMIUM, CARBON TETRACHLORIDE, CHLOROBENZENE, CHLORONE, CHLORFORM, COAL TARS, COPPER, CRESOLS, CYANIDE, DDT, 1,1-DICHLOROBENZENE, 1,2-DICHLOROBENZENE, VOL 29: 1,1-DICHLOROBENZENE, 1,2-DICHLOROBENZENE, CIS-1,2-DICHLOROBENZENE, ETHANOL, GLYCOL ETHERS, HEXACHLOROBENZENE, HEXACHLOROCYCLOPENTADIENE, HEXACHLOROCYCLOHEPTADIENE, HEXAVALENT CHROMIUM, IRON (AND COMPOUNDS), LEAD, LINOLENE, MANGANESE (AND COMPOUNDS), MERCURY, METHYL ETHYL KETONE, METHYLENE CHLORIDE, NITROBENZENE, NICKEL, PENTACHLOROPHENOL, PHENOL, PHENANTHRENE, VOL 30: POLYCHLORINATED BIPHENYLS (PCBS), POLYCYCLIC AROMATIC HYDROCARBONS (PAHs), PHENOL, SELENIUM (AND COMPOUNDS), SODIUM CYANIDE, SULFURIC ACID, 2,3,7,8-TETRACHLORODIBENZO-P-DIOXIN, 1,1,2,2-TETRACHLOROBENZENE, TETRACHLOROBENZENE, TOLUENE, 1,1,2-TRICHLOROBENZENE, 1,1,1-TRICHLOROBENZENE, TRICHLOROBENZENE, 2,4,5-TRICHLOROPHENOL, 2,4,6-TRICHLOROPHENOL, TRIVALENT CHROMIUM, VINYL CHLORIDE, XYLENE, ZINC (AND COMPOUNDS)	09/01/84	DDO/DO-EA/ECAD - OBER/ALUM	Final	1750	2	
5009	31 INTEGRATED RISK INFORMATION SYSTEM (IRIS) (A COMPUTER-BASED HEALTH RISK INFORMATION SYSTEM AVAILABLE THROUGH E-MAIL - BROOD LIRE ON ACCESS IS INCLUDED)	-	OEA	Final	-	2	

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5011	31	PUBLIC HEALTH RISK EVALUATION DATABASE (PHED) (USER'S MANUAL AND TWO DISKETTES CONTAINING THE DATABASE) PLUS SYSTEM ARE INCLUDED)	09/16/88	CERR/TOXICS INTEGRATION BRANCH	Final	-	2	
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004305

004306

DATA ELEMENT DEFINITIONS

The data elements of the Compendium database, as identified on the index, are shown below:

DATA ELEMENT	DEFINITION
Doc No	Unique four-digit number assigned to a document included in the Compendium according to category.
Vol	Volume number of the binder in which the hard copy of the document is contained.
Title	Title of the document. Secondary Reference is identified following the title when a document relates to more than one category. The document itself is filed under the number series assigned to its primary category.
Date	The date the document was published by or released from the issuing office or entity.
Authors	Author(s) and affiliation(s). Also includes identification of the EPA Project Officer and issuing office, where applicable.
Status	Indicates the status of a document, either draft or final version.
Pages	Total number of printed pages of the document, including any attachments.
Tier	Tier 1 or Tier 2. Tier 1 documents are the core documents of the Compendium as listed in the pamphlet titled "Selected Technical Guidance for Superfund Projects," compiled by OERR. Tier 2 documents are all other documents included in the Compendium.
Attachments	Attachments to a document by complete or abbreviated title.
OSWER/EPA Number	EPA report or OSWER Directive System numbers, where applicable.

LIST OF ORGANIZATIONAL ABBREVIATIONS AND ACRONYMS IDENTIFIED IN THE INDEX

<u>Organization</u>	<u>Acronym</u>
Agency for Toxic Substances and Disease Registry	ATSDR
Center for Environmental Research Information	CERI
Contract Laboratory Program	CLP
U.S. Corps of Engineers	COE
Exposure Assessment Research Division	EARD
Environmental Criteria and Assessment Office	ECAO
Environmental Monitoring Systems Laboratory	EMSL
Emergency Response Division	ERD
Environmental Research Laboratory	ERL
Hazardous Response Support Division	HRSD
Hazardous Site Control Division	HSCD
Hazardous Site Evaluation Division	HSED
Hazardous Waste Engineering Research Laboratory	HWERL
Municipal Environmental Research Laboratory	MERL
Office of Environmental Engineering and Technology	OEET
Office of Emergency and Remedial Response	OERR
Office of Health Effects Assessment	OHEA
Office of Research and Development	ORD
Office of Solid Waste	OSW
Office of Solid Waste and Emergency Response	OSWER
Office of Waste Programs Enforcement	OWPE
Policy Analysis Staff	PAS
Waterways Experiment Station	WES
Waste Management Division	WMD

004308

APPENDIX F

MODEL TRANSMITTAL COVER LETTER

[Name of Contact]

[Address]

Dear [Name of Contact]:

The U.S. Environmental Protection Agency is required by law to establish administrative records "at or near a facility at issue." This administrative record 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, it is our hope that they 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 having the [Name of local repository] as the designated administrative record facility for the [Name of site] Superfund site. The enclosed record files, along with any future documents relating to technical activities at the site should be placed in the [Name of local repository] and be available for public review. The record files should be treated as a non-circulating reference - it should not be removed from your facility.

Also enclosed is a fact sheet to assist you and your staff in answering questions posed by the public concerning administrative records for selection of response actions at Superfund sites. Please feel free to distribute this guide to the public.

To ensure the receipt of the administrative record file, I would appreciate your completion of the attached Document Transmittal Acknowledgment form. Please return this form in the enclosed self-addressed, stamped envelope.

Again, I would like to thank you for your cooperation with the U.S. EPA in serving as a Field Repository. If you have any questions or comments, please contact [Name of EPA contact] at [Phone No.].

Sincerely,

[Name]

Administrative Record Coordinator

APPENDIX G

MODEL DOCUMENT TRANSMITTAL ACKNOWLEDGMENT

004309

From: [Regional Office Address]

To: [Field Repository Address]

I acknowledge that I have received the following documents from the U.S. EPA Region ____ Office, pertaining to [Site Name] Superfund site.

Administrative Record Name - _____ [Site Name]

Administrative Record Document Numbers - _____

Signed _____

Date _____

Please return this form to: [Regional Office Address]

004310

APPENDIX H

FACT SHEET

Administrative Records in Local Repositories

The "administrative record" is the collection of documents which form the basis for the selection of a response action at a Superfund site. Under section 113(k) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act (CERCLA), EPA is required to establish an administrative record for every Superfund response action and to make a copy of the administrative record available at or near the site.

The administrative record file must be reasonably available for public review during normal business hours. The record file should be treated as a non-circulating reference document. This will allow the public greater access to the volumes and also minimize the risk of loss or damage. Individuals may photocopy any documents contained in the record file, according to the photocopying procedures at the local repository.

The documents in the administrative record file may become damaged or lost during use. If this occurs, the local repository manager should contact the EPA Regional Office for replacements. Documents may be added to the record file as the site work progresses. Periodically, EPA may send supplemental volumes and indexes directly to the local repository. These supplements should be placed with the initial record file.

The administrative record file will be maintained at the local repository until further notice. Questions regarding the maintenance of the record file should be directed to the EPA Regional Office.

The Agency welcomes comments at any time on documents contained in the administrative record file. Please send any such comments to [name and address]. The Agency may hold formal public comment periods at certain stages of response process. The public is urged to use these formal review periods to submit their comments.

For further information on the administrative record file, contact [name and phone no. of Administrative Record Coordinator].

APPENDIX I

004311

MODEL NOTICE OF PUBLIC AVAILABILITY

THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
ANNOUNCES THE AVAILABILITY OF THE
ADMINISTRATIVE RECORD
XYZ SITE, [Locality, State]

The U.S. Environmental Protection Agency (EPA) announces the availability for public review of files comprising the administrative record for the selection of the [remedial, removal] action at the XYZ site, [Locality, State]. EPA seeks to inform the public of the availability of the record file at this repository and to encourage 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 [remedial, removal] action at this site. Documents now in the record files include [preliminary assessment and site investigation reports, validated sampling data, RI/FS work plan, and the community relations plan]. Other documents will be added to the record files as site work progresses. These additional documents may include, but are not limited to, the RI/FS report, other technical reports, additional validated sampling data, comments and new data submitted by interested persons, and EPA responses to significant comments.

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

[Repository Name] and U.S.EPA - Region Z
[Address and Phone #] [Address and Phone #]

Additional information is available at the following locations:

Verified sampling data - Contract laboratory,
and documentation [Address and Phone #]
Guidance documents and - EPA-Region Z
technical literature [Address and Phone #]

Written comments on the administrative record should be sent to:

[Name], Office of Public Affairs
U.S. EPA - Region Z
[Address and Phone #]

004312

APPENDIX J

MICROFORM APPROVAL MEMORANDUM



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

OCT 21 1988

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Microfilming the Administrative Record

FROM: Edward J. Hanley, Director *[Signature]*
Office of Information Resources Management

TO: Asa R. Frost, Jr., Director
OSWER Information Management Staff

In accordance with EPA Records Management Manual, Chapter 6, dated 7/13/84, I approve OSWER's request for an administrative record micrographic system for regional hazardous waste management programs.

The feasibility study prepared for OWPE, entitled "Assessment of the Suitability and Costs of Alternatives for the Administrative Record" (June 30, 1988), satisfactorily documents and justifies the need for converting the administrative record to microform. In particular, the requirement under SARA to make the administrative record publicly available at or near each hazardous waste site makes microform a cost-effective storage medium.

Please inform each regional hazardous waste program of my approval of OSWER's request and of the need to comply with the remaining provisions of Chapter 6 of the EPA Records Manual should the region proceed with implementing an administrative record micrographic system.

cc: SIRMOS, Region 1 - X

APPENDIX K

MODEL CERTIFICATION

IN THE [NAME OF COURT]

UNITED STATES OF AMERICA,

Plaintiff,

v.

[NAMES OF DEFENDANTS]

Defendants,

[number]

CIVIL ACTION NO.

v.

[NAMES OF THIRD PARTY
DEFENDANTS]

Third Party Defendants

CERTIFICATION OF DOCUMENTS
COMPRISING THE ADMINISTRATIVE RECORD

The United States Environmental Protection Agency (EPA) hereby certifies that the attached documents constitute the administrative record for selection of response actions under the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, for the [name of site] site in [City or County], [State].

By the United States Environmental Protection Agency:

In witness whereof I have subscribed my
 name this ____ day of _____, 19____
 in _____ [city] _____.

 [signature]

 [typed name]

PREAMBLE TO SUBPART I OF NCP

Subpart I—Administrative Record for Selection of Response Action

Subpart I of the NCP is entirely new. It implements CERCLA requirements concerning the establishment of an administrative record for selection of a response action. Section 113(k)(1) of CERCLA requires the establishment of "an administrative record upon which the President shall base the selection of a response action." Thus, today's rule requires the establishment of an administrative record that contains documents that form the basis for the selection of a CERCLA response action. In addition, section 113(k)(2) requires the promulgation of regulations establishing procedures for the participation of interested persons in the development of the administrative record.

These regulations regarding the administrative record include procedures for public participation. Because one purpose of the administrative record is to facilitate public involvement, procedures for

establishing and maintaining the record are closely related to the procedures governing public participation. General community relations provisions found in other parts of the proposed NCP are addressed elsewhere in this preamble.

The following sections discuss the major comments received on the proposed subpart I and EPA's responses.

Name: General comments.

Proposed rule: Subpart I details how the administrative record is assembled, maintained and made available to the public.

Response to comments: Comments on the administrative record regulations included the suggestion that the preamble provide a general statement differentiating between the administrative record and the information repository.

EPA agrees that while subpart I includes ample information on the requirements of the administrative record, a brief clarification would help to differentiate the record from the information repository.

The information repository includes a diverse group of documents that relate to a Superfund site and to the Superfund program in general, including documents on site activities, information about the site location, and background program and policy guides. EPA requires an information repository at all remedial action sites and any site where a removal action is likely to extend beyond 120 days. The purpose of the information repository is to allow open and convenient public access to documents explaining the actions taking place at a site.

The administrative record discussed in this subpart, 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 that the lead agency relies on, as well as relevant comments and information that the lead agency considers but may reject in the ultimate response selection decision. Thus, the record will include documents the lead and support agency generate, PRP and public comments, and technical and site-specific information. These documents occasionally overlap with those included in the information repository. The administrative record includes such information as site-specific data and comments, guidance documents and technical references used in the selection of the response action. The information repository may include guides to the Superfund process, background information, fact sheets, press releases, maps, and other information to aid public understanding

of a site response, regardless of whether the information has bearing on the eventual response selection at that site.

One commenter felt that there was no mechanism for PRPs to participate in the development of the administrative record. In response, PRPs are given a chance to participate in the development of the administrative record throughout its compilation. EPA will make available information considered in selecting the response action to PRPs and others through the administrative record file. Interested persons may peruse the record file, submit information to be included in the administrative record file, or may comment on its contents during the ensuing public comment period.

Name: Section 300.800(a). Establishment of an administrative record. Section 300.810(a). Contents of the administrative record.

Proposed rule: Section 113(k)(1) of CERCLA states that the "President shall establish an administrative record upon which the President shall base the selection of a response action." EPA used similar language in § 300.800(a) of the proposed rule: "The lead agency shall establish an administrative record that contains the documents that form the basis for the selection of a response action." (Emphasis added.) Section 300.810(a) states that the "administrative record file for selection of a response action typically, but not in all cases, will contain the following types of documents * * *," followed by an enumeration of those documents.

Response to comments: EPA's choice of the phrase "form the basis" in § 300.800(a) drew many comments. The comments expressed concern that the lead agency would have the discretion to include in the administrative record only those documents that support EPA's selected remedy.

These comments appear to be based on a misunderstanding of what the phrase "forms the basis of" means as it was used in the proposed rule. The statute defines the administrative record as the "record upon which the President shall base the selection of a response action." EPA's intent in defining the record as the file that "contains the documents that form the basis for the selection of a response action" was simply to reflect the statutory language. For example, an administrative record will contain the public comments submitted on the proposed action, even if the lead agency rejects the comments, because the lead agency is required to consider these comments and respond to significant comments in making a final decision. Thus, these comments also

form the basis of the final response selection decision. EPA intends that the regulatory language defining the administrative record file embody general principles of administrative law concerning what documents are included in an "administrative record" for an agency decision. As a result, contrary to the suggestion of the commenters, the proposed definition of the administrative record does not mean that the record will contain only those documents supporting the selected response action.

A commenter asked that the phrase "but not in all cases" be deleted from § 300.810(a), or specify the cases where documents are excluded from the administrative record. EPA believes it is better not to attempt to list excluded documents in the NCP since EPA cannot possibly anticipate all the types of documents that will be generated for a site or for future sites, and which of these documents should be excluded except as generally described in § 300.810(b). It should be noted, for example, that although a health assessment done by ATSDR would normally be included in the administrative record, it would not be if the assessment was generated by ATSDR after the response is selected.

Others commented that certain documents should always be included in the administrative record. EPA believes that only a small group of documents will always be generated for every type of CERCLA site, since each site is unique. Other documents may or may not be generated or relevant to the selection of a particular response action at a site. EPA understands that a definitive list of required documents would assist parties in trying to assess the completeness of the administrative record, but such a list would not be practical. Different sites require different documents.

A related group of comments asked that the administrative record always include certain documents, including, specifically, "verified sampling data," draft and "predecisional" documents, and technical studies. One comment stated that "invalidated" sampling data and drafts must be part of the administrative record in some situations. Verified sampling data, i.e., data that have gone through the quality assurance and quality control process, will be included in the record when they have been used in the selection of a response action. "Invalidated" data, i.e., data which have been found to be incorrectly gathered, are not used by EPA in selecting the response action and should therefore not be included in the

record. These should be distinguished from unvalidated data—data that have not been through the quality control process—which may in limited circumstances be considered by the agency in selecting the response action. It is EPA's policy to avoid using unvalidated data whenever possible. Nonetheless, there are times when the need for action and the lack of validated data requires the consideration of such data in selecting an emergency removal action. If such data are used, they will be included in the record.

In general, only final documents are included in the administrative record files. Draft documents are not part of the record for a decision because they generally are revised or superseded by subsequent drafts and thus are not the actual documents upon which the decision-maker relies. However, drafts (or portions of them) generally will be included in the administrative record for response selection if there is no final document generated at the time the response is selected and the draft is the document relied on. In addition, a draft which has been released to the public for the purpose of receiving comments is also part of the record, along with any comments received.

Similarly, predecisional and deliberative documents, such as staff notes or staff policy recommendations or options papers, do not generally belong in the administrative record because they merely reflect internal deliberations rather than final decisions or factual information upon which the response selection is based. However, pertinent factual information or documents stating final decisions on response selection issues for a site generally would be included in the record.

Technical studies are also part of the record, again, if considered by the lead agency in selecting the response action. The commenter seems to have misinterpreted EPA's intent by assuming that only factual portions of a technical study are part of the record. The entire study, or relevant part of the study, should be part of the record.

Another comment stated that the administrative record should include any studies on cost, cost-effectiveness, permanence, and treatment that underlie the record of decision. These studies are already part of the remedial investigation and feasibility study, which is always included in the record. Another party stated that sampling protocols should be in the administrative record. Sampling protocols are part of the RI/FS work plan, which is also part of the administrative record. And because

sampling protocols, like chain of custody documents, are generally grouped together, EPA has provided in this rulemaking that such grouped or serial documents may be listed as a group in the index to the administrative record file.

A related comment requested that all documents generated by contractors should be included in the record. In response, any document that forms the basis of a response selection decision will be included in the administrative record. It is immaterial who develops the document—it can be a contractor, the public (including a PRP), a state or EPA.

One commenter asked that ARAR disputes involving a disagreement over whether a requirement is substantive or administrative be documented in the record. Other comments stated that EPA must ensure that complete ARAR documentation and documentation of all remedial options, not just the selected remedy, be placed in the record. Where ARAR issues are relevant to response selection, lead and support agency-generated documents and public information submitted to the lead agency on this issue would be part of the record. The record will include documentation of each alternative remedy and ARAR studied during the RI/FS process, and the criteria used to select the preferred remedy during the remedy selection process.

EPA also received several comments stating that every document contributing to decision-making should be part of the administrative record. EPA cannot concur in this formulation of the administrative record since it is unclear what "contributing to" means and that phrase may be overly broad. For instance, the term "contributing to" could be interpreted to include all draft documents leading up to a final product. These draft documents do not generally form the basis of the response selection. However, because the administrative record includes documents which form the basis for the decision to select the response action, EPA believes that most "contributing" documents will be included.

One comment stated that the hazard ranking system (HRS) information should be included in the administrative record for selection of the response action. Specifically, they suggested that internal memoranda, daily notes, and the original HRS score should be made available. The National Priorities List (NPL) docket is a public docket, and already contains the relevant ranking information. The information generally relevant to the listing of a site on the NPL is preliminary and not necessarily

relevant to the selection of the response action. If, however, there is information in the NPL docket that is relied on in selecting the response action, it will be included in the administrative record.

Another commenter stated that all materials developed and received during the remedy selection process should be made a part of the record, and stated that the NCP currently omits inclusion of transcripts. As noted above, certain documents simply will not be relevant to the selection of response actions. EPA will, as required by the statute, include in the record all those materials, including transcripts, that form the basis for the selection of a response action, whether or not the materials support the decision.

Several commenters asked that the lead agency be required to mail them individual copies of documents kept in the administrative record. These requests included copies of sampling data, a copy of any preliminary assessment petitions, potential remedies, the risk assessment, a list of ARARs, and notification of all future work to be done. Commenters also asked to be notified by mail when a lead agency begins sampling at a site and when a contractor is chosen for a response action. In addition, many asked for the opportunity to comment on the documents mentioned above. A related comment suggested that EPA maintain a mailing list for each site and mail copies of key documents in the record to every party on the list.

EPA believes that maintaining an administrative record file in two places, in addition to a more general information repository, with provisions for copying facilities reflects EPA's strong commitment to keeping the affected public, including PRPs, informed and providing the opportunity for public involvement in response decision-making. Requiring EPA to mail individual copies of documents available in the record file is beyond any statutory requirements, unnecessary due to the ready availability of the documents in the file, and a severe burden on Agency staff and resources. Most of the documents requested above will generally be available in the administrative record for public review and copying. Additionally, the lead agency should maintain a mailing list of interested persons to whom key site information and notice of site activities can be mailed as part of their community relations plan for a site.

One commenter asked that all PRP comments and comments by other interested parties be included in the record, regardless of their

"significance." EPA will include all comments received during the comment period in the administrative record, regardless of their significance. When the lead agency considers comments submitted after the decision document has been signed, the "significance" of a comment has a bearing on whether it will be included in the administrative record, as specified in § 300.825(c). In addition, while EPA is under no legal obligation to place in the record or consider comments submitted prior to the comment period, EPA will generally, as a matter of policy, consider significant comments submitted prior to the comment period, place them into the record, and respond to them at an appropriate time. However, persons who wish to ensure that the comments they submitted prior to the comment period are included in the record must resubmit such comments during the comment period.

Final rule: Section 300.800(a) is promulgated as proposed.

Name: Section 300.800(b). Administrative record for federal facilities.

Proposed rule: Section 300.800(b) states that the lead agency for a federal facility, whether EPA, the U.S. Coast Guard, or any other federal agency, shall compile and maintain an administrative record for that facility. When federal agencies other than EPA are the lead at a federal facility site, they must furnish EPA with copies of the record index, in addition to other specified documents included in the record. The preamble to the proposed NCP discussion of § 300.800(b) (53 FR 51464) states that EPA will establish procedures for interested parties to participate in the administrative record development, and that EPA may furnish documents which the federal agency is required to place in the record.

Response to comments: One comment stated that EPA should be the custodian for administrative records for federal facilities, especially where the federal facility is a PRP, to avoid any conflict of interest in questions of liability or litigation. Another comment stated that the requirements in § 300.800(b) of the proposed rule would be burdensome to federal agencies in compiling and maintaining the record.

Executive Order 12580 grants federal agencies the authority to "establish the administrative record for selection of response actions for federal facilities under their jurisdiction, custody or control." To avoid the potential for conflicts of interest by federal agencies who are PRPs and in charge of compiling and maintaining the record, EPA retains

control over the development of the record by specifying what goes into the record, by supplementing the record and by requiring an accounting of what is in the record through a report of the indexed contents. EPA believes that these requirements represent sufficient Agency oversight to avoid potential conflicts of interest at federal facilities while ensuring that federal lead agencies remain responsible for compiling and maintaining their own administrative record.

EPA is making a minor editorial change in § 300.800(b)(1) to reflect that the federal agency compiles and maintains an administrative record for a facility, and not at a facility, since § 300.800(a) already provides that the record will be located at or near that facility.

Final rule: EPA is promulgating the rule as proposed, except for the following minor editorial change in the first sentence of § 300.800(b)(1): "If a federal agency other than EPA is the lead agency for a federal facility, the federal agency shall compile and maintain the administrative record for the selection of the response action for that facility in accordance with this subpart."

Name: Section 300.800(c). Administrative record for state-lead sites.

Proposed rule: Section 113(k) of CERCLA states that the President "shall establish an administrative record upon which the President shall base the selection of a response action." Section 300.800(c), entitled "Administrative record for state-lead sites," requires that states compile administrative records for state-lead sites in accordance with the NCP.

Response to comments: Several commenters believe that the new administrative record procedures place an onerous burden on the state, and request that state requirements such as Open Records Acts should be allowed as a substitute for compliance with subpart I. Another commenter recommended that states be allowed to determine whether a complete administrative record is needed at or near the site when a site is state-lead. Where a response is taken under CERCLA at a state-lead site, EPA is ultimately responsible for the selection of a response action. Therefore, under section 113(k), EPA must establish an administrative record for the CERCLA response action at the site, and must, at a minimum, comply with subpart I. There may be many different ways of compiling administrative records and involving the public in the development

of the record. Subpart I states the minimum requirements for section 113(k). Lead agencies, including states, may provide additional public involvement opportunities at a site. In response to whether or not states should maintain a complete administrative record at or near the site, EPA believes that states must have such a record in order to meet CERCLA section 113(k) requirements.

EPA has included a minor editorial change in § 300.800(c) to reflect that a state compiles and maintains an administrative record for rather than at a given site.

Final rule: EPA is promulgating § 300.800(c) as proposed, except for a minor editorial change in the first sentence as follows: "If a state is the lead agency for a site, the state shall compile and maintain the administrative record for the selection of the response action for that site in accordance with this subpart."

Name: Sections 300.800(d) and 300.800(e). Applicability.

Proposed rule: Section 300.800(d) states that the provisions of subpart I apply to all remedial actions where the remedial investigation began after the promulgation of these rules, and for all removals where the action memorandum is signed after the promulgation of these rules. Section 300.800(d) also proposes that "[T]his subpart applies to all response actions taken under section 104 of CERCLA or sought, secured, or ordered administratively or judicially under section 106 of CERCLA." Section 300.800(e) states that the lead agency will apply subpart I to all response actions not included in § 300.800(d) "to the extent practicable."

Response to comments: One commenter argued that the applicable provisions of subpart I should be amended to require agencies to comply with the subpart for all sites where the remedy selection decision was made more than 90 days after proposal of the revised NCP for comment. Another comment stated that § 300.800(e) be revised to state that lead agencies must comply with subpart I in any future actions they take, and that all lead agency actions must comply with subpart I "to the maximum extent practicable."

In response, EPA will adhere as closely as possible to subpart I for sites where the remedial investigation began before these regulations are promulgated. EPA will not, however, require that these sites comply with requirements which, because of the

timing of the response action relative to the promulgation of these rules, cannot be adhered to. For example, under the final rule the administrative record file must be available at the beginning of the remedial investigation phase. If these regulations are promulgated when a site is in the middle of the remedial investigation process, and the administrative record is not yet available, the lead agency cannot at this point comply with these regulations. Additionally, EPA believes that adding language to proposed NCP § 300.800(e) to state that lead agencies will comply with provisions of subpart I in any future action after promulgation of the new rule is unnecessary and redundant compliance will be legally required, and applicability to all future response actions is implicit in the rule. Likewise, insertion of the word "maximum" before the phrase "extent practicable" is unnecessary since it would give additional emphasis but would not substantively change the requirement or the meaning of the rule.

One comment agreed with EPA's interpretation that subpart I applies to all response actions "sought, secured or ordered administratively or judicially," but others disagreed. Several stated that the term "judicially" should be deleted from § 300.800(d) because they argue that response actions ordered judicially would receive *de novo* adjudication, instead of administrative record review. CERCLA section 113(j)(1) states: "In any judicial action under this Act, judicial review of any issues concerning the adequacy of any response action taken or ordered by the President shall be limited to the administrative record." Commenters contend that this section does not apply to injunctive actions under CERCLA section 106 because these are not actions "taken or ordered by the President." To the contrary, the selection of a response action is a "response action taken . . . by the President." Accordingly, section 113(j)(1) requires that judicial review of the response action selected by the agency is "limited to the administrative record." Further, section 113(j)(2) stipulates that, "in any judicial action under this chapter"—whether for injunctive relief, enforcement of an administrative order or recovery of response costs or damages—a party objecting to "the President's decision in selecting the response action" must demonstrate, "on the administrative record, that the decision was arbitrary or capricious or otherwise not in accordance with law."

EPA received several comments objecting to EPA's determination that judicial review of an endangerment

assessment be limited to the administrative record. They stated that as a matter of administrative and constitutional law, a finding of imminent and substantial endangerment is not an issue concerning "the adequacy of the response action," as stated in CERCLA section 113(j), and therefore must receive *de novo* review by a court. A second comment requested that EPA state in the regulation that review of EPA's expenditures in the implementation of a remedy is *de novo*.

An assessment of endangerment at a site is a factor highly relevant to the selection of a response action, and is in fact part of the remedial investigation (RI) process central to the decision to select a response action. Therefore, the determination of endangerment (which will generally be included in the decision document) will be included in the administrative record for selection of a response action and should be reviewed as part of that record. (EPA notes that the term "endangerment assessment" document has been superseded by the term "risk assessment" document, and while assessments of endangerment at a site are still conducted during the RI, it is the "risk assessment" document that becomes part of the record.) In response to the comment that Agency expenditures on a response action should receive *de novo* review, EPA notes that this issue was not raised in the proposed NCP, and is therefore not addressed in the final rule.

Final rule: EPA is promulgating the rule as proposed.

Name: Section 300.805. Location of the administrative record file.

Proposed rule: Section 113(k)(1) of CERCLA states that "the administrative record shall be available to the public at or near the facility at issue. The President also may place duplicates of the administrative record at any other location." Section 300.805 of the proposed NCP provides five exemptions for information which need not be placed at or near the facility at issue: Sampling and testing data, guidance documents, publicly available technical literature, documents in the confidential portion of the file, and emergency removal actions lasting less than 30 days.

Response to comments: One commenter supported limiting the amount of information which must be located at or near the site, but many commenters stated that every document contributing to decision-making, including confidential documents which are part of the record, should be located at or near the site and agency

convenience is not a sufficient reason to exclude documents from the site. They asserted that such exclusions undermine active public involvement at the site and are contrary to statutory intent. Another comment stated that requiring the administrative record to be kept in two places, at a central location and at or near the site, runs counter to the statutory requirement of keeping a record only "at or near the facility at issue." One commenter asked that EPA acknowledge that Indian tribal headquarters may be a logical place to keep the administrative record when a Superfund site is located on or near an Indian reservation. A final comment requested that EPA endorse through regulatory language that administrative records can be kept on microfiche or other record management technologies, and have the equivalent legal validity to paper records.

Requiring sampling data and guidance documents to be placed at the site is both unnecessary and, in many cases, very costly. Administrative records are often kept at public libraries where space is limited and cannot accommodate voluminous sampling data for large, complex sites. Summaries of the data are included in the RI/FS, which is located at or near the site. In addition, requiring publicly available technical literature at the site will require copying copyrighted material, an additional expenditure of limited Superfund dollars. Moreover, Agency experience is that, as yet, relatively few people view the administrative record file at or near the site or request review of the sampling data or general guidance documents listed in the index to the site file.

However, EPA has revised the rule to specify that, if an individual wishes to review a document listed in the index but not available in the file located at or near the site, such document, if not confidential, will be provided for inclusion in the file *upon request*. The individual will not need to submit a Freedom of Information Act Request in order to have the information made available for review in the file near the site. EPA believes that provision of such documents in the file near the site upon request meets the requirement of CERCLA section 113(k) that the record be "available" at or near the site. In addition, this rule does not bar lead agencies from deciding to place this information in the site file without waiting for a request. Lead agencies are encouraged to place as much of this information at or near the site as practical, and to automatically place information at sites where there is a

high probability that the information will be in demand or the information is central to the response selection decision.

The confidential portion of the file need not be located at or near the site, and will not be available upon request either at the site or at the central location, since the information is not available for public review.

EPA believes that requiring that the record be located in two places is necessary to ensure both adequate public access to the record files and better lead-agency control over the record documents. The statutory requirement in CERCLA section 113(k)(1) states that the President may also place duplicates of the administrative record at any other location. This section clearly provides authority to maintain a second administrative record at a central location. Section 300.805 of the proposed NCP (53 FR 51515) reflects EPA's decision to make this statutory option a regulatory requirement. A centrally located record may offer easier access to interested parties located far from the response site.

EPA agrees with the commenter that housing the centrally located copy of the record at Indian tribal headquarters may be appropriate when a Superfund site is located at or near an Indian reservation. In the 1986 amendments to CERCLA, Indian tribes are accorded status equivalent to states, and can be designated lead agencies for response actions, in which case they would also be required to compile and maintain the administrative record at or near the site.

Finally, as EPA stated in the preamble to the proposed NCP, maintaining the administrative record on microfiche is already recognized as a legally valid and effective practice: "EPA may make the administrative record available to the public in microform. EPA may microform-copy documents that form the basis for the selection of a CERCLA response action in the regular course of business" (53 FR 51465). EPA agrees that this should be specified in the rule and has added § 300.805(c) accordingly, providing that the lead agency may make the record available in microform.

Final rule: Section 300.805 is modified as follows:

1. Section 300.805(b) is added to the rule as follows: "Where documents are placed in the central location but not in the file located at or near the site, such documents shall be added to the file located at or near the site upon request, except for documents included in paragraph (a)(4) of this section."

2. Section 300.805(c) is added to the rule as follows: "The lead agency may make the administrative record file available to the public in microform."

3. The section has been renumbered accordingly.

Name: Sections 300.810(a)-(d). Documents not included in the administrative record file.

Proposed rule: Section 300.810(b) discusses which documents may be excluded from the administrative record. Section (c) discusses privileged information that is not included in the administrative record. Section 300.810(d) discusses confidential information that is placed in the confidential portion of the administrative record.

Response to comments: One commenter argued that § 300.810 should specifically include an exemption for classified documents related to national security. While the NCP currently does not address the potential conflict between national security concerns and the requirement to establish a publicly accessible administrative record, it is not clear that such an exemption could be adequately specified by rule or that an exemption would appropriately resolve this conflict. Section 121(j) provides a national security waiver by Presidential order of any requirements under CERCLA, which can be invoked in certain circumstances. Under this provision, protection of national security interests requires case-by-case review under section 121(j) and not a blanket exemption in the NCP. Nothing in the NCP limits the availability of this waiver.

Another comment received by EPA stated that the treatment of privileged and confidential documents in the records is unfair, because it denies access to documents that may be critical to the selection of a remedy. EPA has provided for a confidential portion of the administrative record where documents containing, for example, trade secrets of companies that have developed patented cleanup technologies being considered as a response-selection alternative can be kept confidential. To maintain a fair balance between the need for confidentiality and the public's right of review of the record, the lead agency must summarize or redact a document containing confidential information to make available to the greatest extent possible critical, factual information relevant to the selection of a response action in the nonconfidential portion of the record.

A final comment proposed that an index to the privileged documents should be included in the

nonconfidential portion of the administrative record. EPA agrees, believing that an index will let interested parties know in general terms what documents are included in the record without compromising the confidential nature of the information contained in those documents.

Finally, EPA is adding a sentence to § 300.810(a)(6) to clarify that the index can include a reference to a group of documents, if documents are customarily grouped. This will simplify EPA's task without compromising the integrity of the record.

Final rule: 1. EPA is promulgating §§ 300.810(b), (c) and (d) as proposed with a minor editorial change to clarify the first sentence of § 300.810(d).

2. The following language is added to § 300.810(a)(6) to provide for listing grouped documents in the administrative record file index: "If documents are customarily grouped together, as with sampling data chain of custody documents, they may be listed as a group in the index to the administrative record file."

Name: Section 300.815. Administrative record file for a remedial action.

Proposed rule: The term "administrative record file" is used throughout the proposed NCP. Section 300.815(a) proposes that the administrative record file be made available for public inspection at the beginning of the remedial investigation phase.

Response to comments: EPA received several comments objecting to the concept of an administrative record file. They objected because there is no statutory authority for establishing a file, and because they were concerned that the lead agency could edit the file, specifically by deleting public and PRP comments and information that do not support the response action ultimately chosen by EPA, and that these comments and information would not remain a part of the final administrative record.

The statute requires the President to establish an administrative record. Under subpart I of the NCP, the administrative record file is the mechanism for compiling, and will contain, the administrative record required by section 113(k). One reason EPA adopted the concept of an administrative record file is that EPA felt that it may be confusing or misleading to refer to an ongoing compilation of documents as an "administrative record" until the compilation is complete. Until the response action has been 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.

However, this does not mean, as the comments appear to suggest, that the lead agency may "edit" the administrative record file in a manner that removes comments and technical data simply because they are not supportive of the final selection decision. Any comments and technical information placed in the record file for a proposed response action and relevant to the selection of that response action, whether in support of, or in opposition to, the selected response action, become part of the administrative record for the final response selection decision. Such materials will remain in the administrative record file, and will become part of the final administrative record. However, EPA believes that as a matter of law documents that are erroneously placed in the administrative record file (e.g., documents that have no relevance to the response selection or that pertain to an entirely different site) would not necessarily become part of the final administrative record.

EPA received additional comments stating that the administrative record file should be available before the beginning of the remedial investigation phase. These comments suggested that the file be available: When a site is entered into the CERCLIS data base; when the HRS score is calculated; when proposed for inclusion on the NPL; after the preliminary assessment report; and after the remedial site investigation.

EPA believes that the point at which a site is entered into the CERCLIS data base is too early to put any information which would be relevant to a selection of a response action into a record file because at this point there has been no site evaluation and therefore little factual information about the site upon which to base a response decision. Interested parties can already find any information on a site that would be included at the point of the HRS scoring and placement on the NPL in the NPL docket, which is publicly available. The preliminary assessment and remedial investigation stages of a response are premature for making the administrative record available; at these points there is little information relevant to response selection on which to comment or to review. Once the RI/FS work plan is approved, and the RI/FS study begins—including such activities as project

scoping, data collection, risk assessment and analysis of alternatives—there is a coherent body of site-specific information with relevance to the response selection upon which to comment. EPA believes that the beginning of the RI/FS phase is the point in the process when it makes sense to start a publicly available record of information relevant to the response selection.

One comment suggested that interested persons would have no chance to comment on the formation of the RI/FS work plan. The comment suggested that the record file should be available before the RI/FS work plan is approved, e.g., with a draft work plan or statement of work. EPA disagrees. Approved work plans are often amended. An interested person may comment on the scope or formation of the work plan, and such comments can be taken into account by the lead agency and incorporated into a final or amended work plan. Such comments must be considered if submitted during the comment period on the proposed action.

Final rule: EPA is promulgating § 300.815(a) as proposed.

Name: Section 300.815. Administrative record file for a remedial action. Section 300.820(a). Administrative record file for a removal action.

Proposed rule: Subpart I requires that the administrative record for a remedial action be available for public review when the remedial investigation begins. Thereafter, relevant documents are placed in the record as generated or received. The proposed regulations also require that the lead agency publish a newspaper notice announcing the availability of the record files, and a second notice announcing that the proposed plan has been issued. A public comment period of at least 30 days is required on the proposed plan. Section 300.820(a) outlines the steps for the availability of the record and public comment for a non-time-critical removal action. EPA solicited comments on a proposal currently under consideration to require quarterly or semi-annual notification of record availability and the initiation of public comment in the Federal Register.

Response to comments: Some commenters suggested that the use of the Federal Register to announce the availability of the administrative record is too costly or of little or no benefit. Several commenters requested clarification on how and when the lead agency should respond to comments. Another stated that lead agencies should be encouraged—though not

required—to respond to early comments before the formal comment period begins.

EPA chose not to require a notice of availability of the administrative record in the Federal Register in this rulemaking because it is still unclear whether the benefits of this additional notice outweigh its costs. EPA may decide in the future to require this additional notice if it determines that such notice would improve notification.

EPA agrees with commenters that clarification is needed as to when the lead agency should respond to comments. We also agree that the lead agency should be encouraged to respond to comments submitted before the public comment period. EPA generally will consider any timely comments containing significant information, even if they are not received during the formal comment period, and encourages other lead agencies to do so. EPA will strive to respond to comments it receives as early as possible, and to encourage other lead agencies to follow suit. However, any lead agency is required to consider and respond to only those comments submitted during a formal comment period. Any other comments are considered at the lead agency's discretion. EPA has revised the language of these sections to reflect its policy on consideration of public comments submitted prior to public comment periods.

One comment recommended that the regulations should provide how long the administrative record must be available, and suggested EPA coordinate efforts with the National Archives about retaining the record as a historical record. Another felt that materials were not always placed into the record in a timely manner, and that the record was not always available to the working public during evenings and weekends or accompanied by a copying machine. Similarly, one commenter felt that documents should be placed in the record when they are generated or in a prescribed timeframe of two weeks. Another asked that free copies of key documents be included in the record.

EPA believes that the length of time a record must be available at or near the site will be dependent on site-specific considerations such as ongoing activity, pending litigation and community interest. EPA also believes that difficulties sometimes encountered by the working public require resolution on a site-by-site basis and do not merit change in the proposed NCP language. Special provisions may have to be made by the records coordinator, with the aid of other site team members, including

the community relations coordinator or regional site manager, to ensure that the record location chosen is convenient to the public and that copying facilities are made available. Using public libraries to house the record should promote better availability of the record during non-working hours and on weekends. In response to mandating deadlines for lead agencies to place documents into the administrative record file, Agency guidance already directs record compilers to place documents into the record file as soon as they are received. Agency policy additionally prescribes a suggested timeframe for placing documents in the record file. EPA believes that mandatory deadlines in the NCP would do little to increase the rate at which records are already compiled. The decision to place free copies of key documents in the record at or near the site will be a site-specific decision based on the level of community interest in these documents. Those who wish to make copies of key documents or any document contained in the administrative record file should already have access to copying facilities.

EPA received a comment requesting that it publish a joint notice of availability of the administrative record with a notice of availability of Technical Assistance Grants. Another comment stated that the removal site evaluation and engineering evaluation/cost analysis (EE/CA) must be included in the record for a non-time-critical removal action.

Publishing notice of the availability of the record in tandem with announcements of the availability of Technical Assistance Grants (TAGs) is a good idea where TAGs are available for a removal action. The TAGs, however, are generally designed to support citizen involvement in technical issues for sites undergoing remedial actions. The one-year, \$2 million limitations on removals and the limited number of alternatives usually reviewed make further expense on a technical advisor less beneficial than it might be for a long-term remedial action. As for placing the removal site evaluation and EE/CA in the administrative record, EPA agrees that generally such documents would be part of the administrative record for the removal action.

Finally, EPA is making a minor change to the language of § 300.820(a)(4). EPA is substituting the term "decision document" in place of action memorandum to allow for situations where the agency's decision document

for a removal action is not named an action memorandum.

Final rule: 1. The second sentences of §§ 300.815(b), 300.820(a)(2) and 300.820(b)(2) are revised to reflect the new language on responding to comments as follows: "The lead agency is encouraged to consider and respond, as appropriate, to significant comments that were submitted prior to the public comment period."

2. In § 300.820(a)(4), the term "decision document" is substituted for "action memorandum."

3. The remainder of § 300.820(a) is promulgated as proposed.

Name: Section 300.820(b). Administrative record file for a removal action—time-critical and emergency.

Proposed rule: Section 300.820(b) outlines steps for public participation and administrative record availability for time-critical and emergency removal responses (53 FR 51516): "Documents included in the administrative record file shall be made available for public inspection no later than 60 days after initiation of on-site removal activity," at which point notification of the availability of the record must be published. The lead agency then, as appropriate, will provide a public comment period of not less than 30 days on the selection of the response action.

Response to comments: Several comments suggested that public comment requirements under § 300.820(b) were unnecessary and burdensome, especially the requirement to publish a notice of the availability of the record. One comment argued that requiring public notification of both record availability and of a site's inclusion on the NPL was unnecessary and duplicative. Another comment stated that the requirements for public notification and public comment are not appropriate for all time-critical removal actions, and recommended that the administrative record be available for review only for those time-critical removal actions that do require public notice and comment. A related comment stated that the requirement to publish a notice of availability of the administrative record for all time-critical removal actions be eliminated in favor of making the record available but not requiring an advertisement or comment period, since some time-critical removal actions are completed before a public comment period could be held. Others asked that the public comment period become mandatory, or at least mandatory for removal activities not already completed at the time the record is made available. Another comment requested that the record become

available sooner—at least 30 days after initiation of on-site removal activity—because the current 60-day period prevented the consideration of any pre-work comments. A second comment supported the 60-day period. Finally, a commenter argued that it made little sense to make the record available after 60 days for an emergency response because the on-scene coordinator (OSC) report containing most of the response information isn't required to be completed until one year following the response action.

In general, the public participation requirements under § 300.820(b) are designed to preserve both the flexibility and discretion required by the lead agency in time-critical removal action situations as well as EPA's commitment to encouraging public participation and to keeping an affected community well-informed. EPA believes the notification and comment periods required in § 300.820(b) provide for both Agency flexibility and meaningful public involvement. The regulatory language stating that "The lead agency shall, as appropriate, provide a public comment period of not less than 30 days" provides the lead agency needed flexibility when the emergency nature of circumstances makes holding a comment period infeasible.

While EPA believes that it is necessary to announce the availability of the administrative record for time-critical and emergency removal actions as well as non-time-critical actions, EPA believes that requiring establishment of the administrative record and publishing a notice of its availability 30 days after initiating a removal action in all cases, instead of "no later than 60 days after initiating a removal action," as proposed, would be somewhat premature. It has been EPA's experience that it often takes 60 days to stabilize a site (i.e., those activities that help to reduce, retard or prevent the spread of a hazardous substance release and help to eliminate an immediate threat). EPA believes that the overriding task of emergency response teams during this critical period must be the undertaking of necessary stabilization, rather than administrative duties. Compiling and advertising the record before a site has become stabilized would divert emergency response teams from devoting their full attention to a response. EPA believes that such administrative procedures are better left for after site stabilization.

Public notice requirements for announcing the availability of the administrative record and for a site's inclusion on the NPL are not duplicative.

but notify the public of two very different decisions. Removal actions do not always take place at sites on the NPL; therefore, the notice requirements are obviously not duplicative for these removal actions. For remedial sites that are on the NPL, the administrative record need not be established for some time after listing on the NPL, so publishing a notice of the availability of the record would be essential to make the affected public cognizant of site progress and their opportunity for review of documents included in the record.

Lastly, the procedures specified in § 300.820(b) are applicable to an emergency removal that starts and finishes within 60 days. However, as provided in § 300.820(b)(2), a comment period is held only where the lead agency deems it appropriate. But because the administrative record is an avenue for public information as well as for public comment, EPA also believes that even if the action is completed before the record file is made available, it is still appropriate to make the record available to the public. There is also no inherent contradiction in the OSC report being available one year after completion of the response action while the administrative record becomes available 60 days after initiation of on-site activities. Since the OSC report is a summary of the site events and is not a document which is considered in the selection of response action, it is not generally included in the administrative record.

Final rule: EPA is promulgating § 300.820(b) as proposed, except that:

1. The second sentence of § 300.820(b)(2) is revised on responding to public comments as described above.
2. Section 300.820(b)(3) is revised consistent with § 300.820(a)(4); the term "action memorandum" is changed to "decision document."

Name: Section 300.825. Record requirements after decision document is signed.

Proposed rule: Section 300.825 describes situations where documents may be added to the administrative record after the decision document is signed. Documents may be added to a record in the following circumstances: When the document addresses a portion of the decision which the decision document does not address or reserves for later; when the response action changes and an explanation of significant differences or an amended decision document is issued; when the agency holds additional public comment periods after the decision is signed; and when the agency receives comments

containing "significant information not contained elsewhere in the record which could not have been submitted during the public comment period which substantially support the need to significantly alter the response action" (53 FR 51516). In addition, subpart E of the proposed NCP discusses ROD amendments and Explanations of Significant Differences. Explanations of Significant Differences may be used for significant changes which do not fundamentally change the remedy, and do not require public comment. ROD amendments must be used for fundamental changes, and require a public comment period.

Response to comments: One commenter asked that subpart I reflect the factors consistently applied by courts when determining whether the record should be supplemented, including such criteria as Agency reliance on factors not included in the record, an incomplete record, and strong evidence that EPA engaged in improper behavior or acted in bad faith. A related comment stated that since general principles of administrative law apply to administrative record restrictions and supplementing the record, language limiting supplementing the record should be deleted from the NCP. EPA believes that including specific tenets of administrative law governing supplementing of the record in the NCP itself is unnecessary. These tenets apply to record review of response actions whether or not they are included in the NCP. The requirements of § 300.825(c) do not supplant principles on supplementing administrative records.

Another comment recommended that EPA permit the record to be supplemented with any issue contested by a PRP, while granting an objective third party the ability to accept or reject record supplements. EPA already requires that any documents concerning remedy selection submitted by PRPs within the public comment period be included in the record. All significant evidence submitted after the decision document is complete is already included in the record, so long as it meets the requirements of § 300.825(c), is not included elsewhere in the record, could not have been submitted during the public comment period, and supports the need to significantly alter the response action. EPA believes these criteria are reasonable and do not require the use of a third-party arbitrator.

One comment stated that all PRP submissions must be placed in the record in order to protect a party's due-process right to be heard. EPA disagrees that all PRP submissions to the lead

agency must be placed in the record in order to protect the party's due process rights. The process provided in the rules—including the notice of availability of the proposed plan and administrative record for review, the availability of all documents underlying the response selection decision for review throughout the decision-making process, the opportunity to comment on the proposed plan and all documents in the administrative record file, the requirement that the lead agency consider and respond to all significant PRP comments raised during the comment period, the notice of significant changes to the response selection, and the opportunity to submit, and requirement that the lead agency consider, any new significant information that may substantially support the need to significantly alter the response selection even after the selection decision—is sufficient to satisfy due process. Moreover, the opportunity provided for PRP and public involvement in response selection exceeds the minimum public participation requirements set forth by the statute. Placing a reasonable limit on the length of time in which comments must be submitted, and providing for case-by-case acceptance of late comments through § 300.825(c), does not infringe upon procedural rights of PRP.

One commenter asked that the permissive "may" in § 300.825(a) be changed so there is no lead-agency discretion over whether to add to the administrative record documents submitted after the remedy selection, and stated that additional public comment periods as outlined in § 300.825(b) should not be only at EPA's option. A related comment stated that the multiple qualifiers in § 300.825(c), including the phrases "substantially support the need" and "significantly alter the response action" (53 FR 51516), grant EPA overly broad discretionary powers over what documents may be added to the record. The commenter suggests deleting the word "substantially," as well as stating that all comments, even those disregarded by EPA, should be included in the record for the purpose of judicial review. EPA disagrees that the word "may" in either § 300.825(a) or § 300.825(b) is too permissive. Section 300.825(b) of the proposal was simply intended to clarify the lead agency's implicit authority to hold additional public comment periods, in addition to those required under subpart E for ROD amendments, whenever the lead agency decides it would be appropriate. Because these additional comment periods are not

required by statute or regulation, the "permissive" language simply reflects the lead agency's discretion with respect to these additional public involvement opportunities. Similarly, lead-agency discretion to add to the administrative record documents submitted after a decision document has been signed provides the lead agency the option to go beyond the minimum requirements for public participation outlined in the statute. In response to requests to delete the qualifiers in § 300.825(c), this language is intentionally designed to define carefully the circumstances in which EPA must consider comments submitted after the response action has been selected. This standard recognizes CERCLA's mandate to proceed expeditiously to implement selected response actions, but also recognizes that there will be certain instances in which significant new information warrants reconsideration of the selected response action. Section 300.825(c) is intended to provide a reasonable limit on what comments EPA must review or consider after a decision has been made.

Several commenters requested that PRPs not identified until after the close of the public comment period should be allowed an opportunity to comment on the record within 60 days of EPA's notification of potential liability. EPA makes significant efforts to involve PRPs as early in the process as possible. When PRPs are identified late in the process, they may provide EPA with comments at that time. EPA will consider comments which are submitted after the decision document is signed in accordance with the criteria of § 300.825(c). This is true no matter when the PRP is identified in the process. EPA believes that the current rule is sufficient for granting these late-identified PRPs the opportunity for submitting late comments for the record.

One commenter stated that new information that confirms or substantiates prior public comment should be made part of the record, even after a ROD is signed. EPA is not required by statute or regulation to consider these comments, although a lead agency may, and frequently does, consider post-ROD comments it considers to be significant—in which case both the comment and the lead agency's response are part of the record.

Finally, EPA is making a minor change to § 300.825(b) on additional public comment periods to clarify that, in addition to comments and responses to comments, documents supporting the request for an additional comment period, and any decision documents would be placed in the administrative

record file. Although this is what EPA intended in the proposal, a clarification is necessary to ensure consistency.

Final rule: EPA is promulgating § 300.825 as proposed except for an addition to the last sentence of section (b) as follows: "All additional comments submitted during such comment periods that are responsive to the request, and any response to these comments, along with documents supporting the request and any final decision with respect to the issue, shall be placed in the administrative record file."

Subpart J—Use of Dispersants and Other Chemicals

The following sections discuss comments received on subpart J and EPA's responses.

Name: Sections 300.900–300.920. General.

Existing rule: Section 300.81 described the purpose and applicability of existing subpart H (now subpart J), and § 300.82 defines the key terms used in the regulation. Section 300.83 provides that EPA shall maintain a schedule of dispersants and other chemical or biological products that may be authorized for use on oil discharges called the "NCP Product Schedule."

Section 300.84 sets forth the procedures by which an OSC may authorize the use of products listed on the NCP Product Schedule. The section provides that an OSC, with concurrence of the EPA representative to the RRT and the concurrence of the state(s) with jurisdiction over the navigable waters (as defined by the CWA) polluted by the oil discharge, may authorize the use of dispersants, surface collecting agents, and biological additives listed on the NCP Product Schedule.

This section also provides that if the OSC determines that the use of a dispersant, surface collecting agent, or biological additive is necessary to prevent or substantially reduce a hazard to human life, and there is insufficient time to obtain the needed concurrences, the OSC may unilaterally authorize the use of any product, including a product not on the NCP Product Schedule. In such instances, the OSC must inform the EPA RRT representative and the affected states of the use of a product as soon as possible and must obtain their concurrence for the continued use of the product once the threat to human life has subsided. This provision eliminates delays in potentially life-threatening situations, such as spills of highly flammable petroleum products in harbors or near inhabited areas. Although they will not be listed on the Schedule, this section also provides for

authorization of the use of burning agents on a case-by-case basis. The use of sinking agents is prohibited.

Section 300.84 explicitly encourages advance planning for the use of dispersants and other chemicals. The OSC is authorized to approve the use of dispersants and other chemicals without the concurrence of the EPA representative to the RRT and the affected states if these parties have previously approved a plan identifying the products that may be used and the particular circumstances under which their use is preauthorized.

Section 300.85 details the data that must be submitted before a dispersant, surface collecting agent, or biological additive may be placed on the NCP Product Schedule. Section 300.86 describes the procedures for placing a product on the Product Schedule and also sets forth requirements designed to avoid possible misrepresentation or misinterpretation of the meaning of the placement of a product on the Schedule, including the wording of a disclaimer to be used in product advertisements or technical literature referring to placement on the Product Schedule.

Appendix C details the methods and types of apparatus to be used in carrying out the revised standard dispersant effectiveness and aquatic toxicity tests. Appendix C also sets forth the format required for summary presentation of product test data.

Proposed rule: Proposed subpart J is very similar to subpart H and contains only minor revisions. Section numbers and references to other sections and subparts have been changed where appropriate. Technical changes and minor wording changes to improve clarity have also been made.

Definitions formerly presented in subpart H have been moved to subpart A, and a new definition has been added for miscellaneous oil spill control agents. Accordingly, a list of data requirements for miscellaneous spill control agents is proposed to be added to § 300.915. The definition for navigable waters is as defined in 40 CFR 110.1.

Section 300.910, which addressed "Authorization of use," was modified slightly in the proposed regulation to emphasize the importance of obtaining concurrence for the use of dispersants and other chemicals from the appropriate state representatives to the Regional Response Team (RRT) and the DOC/DOI natural resource trustees "as appropriate."

Response to comments:—1. *Involvement of DOC/DOI trustees.* Many commenters opposed the inclusion of the DOC/DOI trustees in

SUBPART I OF NCP

Subpart I—Administrative Record for Selection of Response Action

§ 300.800 Establishment of an administrative record.

(a) *General requirement.* The lead agency shall establish an administrative record that contains the documents that form the basis for the selection of a response action. The lead agency shall compile and maintain the administrative record in accordance with this subpart.

(b) *Administrative records for federal facilities.* (1) If a federal agency other than EPA is the lead agency for a federal facility, the federal agency shall compile and maintain the administrative record for the selection of the response action for that facility in accordance with this subpart. EPA may furnish documents which the federal agency shall place in the administrative record file to ensure that the administrative record includes all documents that form the basis for the selection of the response action.

(2) EPA or the U.S. Coast Guard shall compile and maintain the administrative record when it is the lead agency for a federal facility.

(3) If EPA is involved in the selection of the response action at a federal facility on the NPL, the federal agency acting as the lead agency shall provide EPA with a copy of the index of

documents included in the administrative record file, the RI/FS workplan, the RI/FS released for public comment, the proposed plan, any public comments received on the RI/FS and proposed plan, and any other documents EPA may request on a case-by-case basis.

(c) *Administrative record for state-lead sites.* If a state is the lead agency for a site, the state shall compile and maintain the administrative record for the selection of the response action for that site in accordance with this subpart. EPA may require the state to place additional documents in the administrative record file to ensure that the administrative record includes all documents which form the basis for the selection of the response action. The state shall provide EPA with a copy of the index of documents included in the administrative record file, the RI/FS workplan, the RI/FS released for public comment, the proposed plan, any public comments received on the RI/FS and proposed plan, and any other documents EPA may request on a case-by-case basis.

(d) *Applicability.* This subpart applies to all response actions taken under section 104 of CERCLA or sought, secured, or ordered administratively or judicially under section 106 of CERCLA, as follows:

(1) Remedial actions where the remedial investigation commenced after the promulgation of these regulations; and

(2) Removal actions where the action memorandum is signed after the promulgation of these regulations.

(e) For those response actions not included in paragraph (d) of this section, the lead agency shall comply with this subpart to the extent practicable.

§ 300.805 Location of the administrative record file.

(a) The lead agency shall establish a docket at an office of the lead agency or other central location at which documents included in the administrative record file shall be located and a copy of the documents included in the administrative record file shall also be made available for public inspection at or near the site at issue, except as provided below:

(1) Sampling and testing data, quality control and quality assurance documentation, and chain of custody forms, need not be located at or near the site at issue or at the central location, provided that the index to the administrative record file indicates the location and availability of this information.

(2) Guidance documents not generated specifically for the site at issue need not be located at or near the site at issue, provided that they are maintained at the central location and the index to the administrative record file indicates the location and availability of these guidance documents.

(3) Publicly available technical literature not generated for the site at issue, such as engineering textbooks, articles from technical journals, and toxicological profiles, need not be located at or near the site at issue or at the central location, provided that the literature is listed in the index to the administrative record file or the literature is cited in a document in the record.

(4) Documents included in the confidential portion of the administrative record file shall be located only in the central location.

(5) The administrative record for a removal action where the release or threat of release requires that on-site removal activities be initiated within hours of the lead agency's determination that a removal is appropriate and on-site removal activities cease within 30 days of initiation, need be available for public inspection only at the central location.

(b) Where documents are placed in the central location but not in the file located at or near the site, such documents shall be added to the file located at or near the site upon request, except for documents included in paragraph (a)(4) of this section.

(c) The lead agency may make the administrative record file available to the public in microform.

§ 300.810 Contents of the administrative record file.

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

(1) Documents containing factual information, data and analysis of the factual information, and data that may form a basis for the selection of a response action. Such documents may include verified sampling data, quality control and quality assurance documentation, chain of custody forms, site inspection reports, preliminary assessment and site evaluation reports, ATSDR health assessments, documents supporting the lead agency's determination of imminent and substantial endangerment, public health evaluations, and technical and engineering evaluations. In addition, for remedial actions, such documents may include approved workplans for the

remedial investigation/feasibility study, state documentation of applicable or relevant and appropriate requirements, and the RI/FS:

(2) Guidance documents, technical literature, and site-specific policy memoranda that may form a basis for the selection of the response action. Such documents may include guidance on conducting remedial investigations and feasibility studies, guidance on determining applicable or relevant and appropriate requirements, guidance on risk/exposure assessments, engineering handbooks, articles from technical journals, memoranda on the application of a specific regulation to a site, and memoranda on off-site disposal capacity;

(3) Documents received, published, or made available to the public under § 300.815 for remedial actions, or § 300.820 for removal actions. Such documents may include notice of availability of the administrative record file, community relations plan, proposed plan for remedial action, notices of public comment periods, public comments and information received by the lead agency, and responses to significant comments;

(4) Decision documents. Such documents may include action memoranda and records of decision;

(5) Enforcement orders. Such documents may include administrative orders and consent decrees; and

(6) An index of the documents included in the administrative record file. If documents are customarily grouped together, as with sampling data chain of custody documents, they may be listed as a group in the index to the administrative record file.

(b) *Documents not included in the administrative record file.* The lead agency is not required to include documents in the administrative record file which do not form a basis for the selection of the response action. Such documents include but are not limited to draft documents, internal memoranda, and day-to-day notes of staff unless such documents contain information that forms the basis of selection of the response action and the information is not included in any other document in the administrative record file.

(c) *Privileged documents.* Privileged documents shall not be included in the record file except as provided in paragraph (d) of this section or where such privilege is waived. Privileged documents include but are not limited to documents subject to the attorney-client, attorney work product, deliberative process, or other applicable privilege.

(d) *Confidential file.* If information which forms the basis for the selection

of a response action is included only in a document containing confidential or privileged information and is not otherwise available to the public, the information, to the extent feasible, shall be summarized in such a way as to make it disclosable and the summary shall be placed in the publicly available portion of the administrative record file. The confidential or privileged document itself shall be placed in the confidential portion of the administrative record file. If information, such as confidential business information, cannot be summarized in a disclosable manner, the information shall be placed only in the confidential portion of the administrative record file. All documents contained in the confidential portion of the administrative record file shall be listed in the index to the file.

§ 300.815 Administrative record file for a remedial action.

(a) The administrative record file for the selection of a remedial action shall be made available for public inspection at the commencement of the remedial investigation phase. At such time, the lead agency shall publish in a major local newspaper of general circulation a notice of the availability of the administrative record file.

(b) The lead agency shall provide a public comment period as specified in § 300.430(f)(3) so that interested persons may submit comments on the selection of the remedial action for inclusion in the administrative record file. The lead agency is encouraged to consider and respond as appropriate to significant comments that were submitted prior to the public comment period. A written response to significant comments submitted during the public comment period shall be included in the administrative record file.

(c) The lead agency shall comply with the public participation procedures required in § 300.430(f)(3) and shall document such compliance in the administrative record.

(d) Documents generated or received after the record of decision is signed shall be added to the administrative record file only as provided in § 300.825

§ 300.820 Administrative record file for a removal action.

(a) If, based on the site evaluation, the lead agency determines that a removal action is appropriate and that a planning period of at least six months exists before on-site removal activities must be initiated:

(1) The administrative record file shall be made available for public inspection when the engineering evaluation/cost

analysis (EE/CA) is made available for public comment. At such time, the lead agency shall publish in a major local newspaper of general circulation a notice of the availability of the administrative record file.

(2) The lead agency shall provide a public comment period as specified in § 300.415 so that interested persons may submit comments on the selection of the removal action for inclusion in the administrative record file. The lead agency is encouraged to consider and respond, as appropriate, to significant comments that were submitted prior to the public comment period. A written response to significant comments submitted during the public comment period shall be included in the administrative record file.

(3) The lead agency shall comply with the public participation procedures of § 300.415(m) and shall document compliance with § 300.415(m)(3)(i) through (iii) in the administrative record file.

(4) Documents generated or received after the decision document is signed shall be added to the administrative record file only as provided in § 300.825.

(b) For all removal actions not included in paragraph (a) of this section:

(1) Documents included in the administrative record file shall be made available for public inspection no later than 60 days after initiation of on-site removal activity. At such time, the lead agency shall publish in a major local newspaper of general circulation a notice of availability of the administrative record file.

(2) The lead agency shall, as appropriate, provide a public comment period of not less than 30 days beginning at the time the administrative record file is made available to the public. The lead agency is encouraged to consider and respond, as appropriate, to significant comments that were submitted prior to the public comment period. A written response to significant comments submitted during the public comment period shall be included in the administrative record file.

(3) Documents generated or received after the decision document is signed shall be added to the administrative record file only as provided in § 300.825.

§ 300.825 Record requirements after the decision document is signed.

(a) The lead agency may add documents to the administrative record file after the decision document selecting the response action has been signed if:

(1) The documents concern a portion of a response action decision that the

decision document does not address or reserves to be decided at a later date; or

(2) An explanation of significant differences required by § 300.435(c), or an amended decision document is issued, in which case, the explanation of significant differences or amended decision document and all documents that form the basis for the decision to modify the response action shall be added to the administrative record file.

(b) The lead agency may hold additional public comment periods or extend the time for the submission of public comment after a decision document has been signed on any issues concerning selection of the response action. Such comment shall be limited to the issues for which the lead agency has requested additional comment. All additional comments submitted during such comment periods that are responsive to the request, and any response to these comments, along with documents supporting the request and any final decision with respect to the issue, shall be placed in the administrative record file.

(c) The lead agency is required to consider comments submitted by interested persons after the close of the public comment period only to the extent that the comments 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 significantly alter the response action. All such comments and any responses thereto shall be placed in the administrative record file.

Subpart J—Use of Dispersants and Other Chemicals

§ 300.900 General.

(a) Section 311(c)(2)(G) of the Clean Water Act requires that EPA prepare a schedule of dispersants and other chemicals, if any, that may be used in carrying out the NCP. This subpart makes provisions for such a schedule.

(b) This subpart applies to the navigable waters of the United States and adjoining shorelines, the waters of the contiguous zone, and the high seas beyond the contiguous zone in connection with activities under the Outer Continental Shelf Lands Act, activities under the Deepwater Port Act of 1974, or activities that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States, including resources under the Magnuson Fishery Conservation and Management Act of 1976.

(c) This subpart applies to the use of any chemical agents or other additives as defined in subpart A of this part that may be used to remove or control oil discharges.

§ 300.905 NCP Product Schedule.

(a) *Oil Discharges.* (1) EPA shall maintain a schedule of dispersants and other chemical or biological products that may be authorized for use on oil discharges in accordance with the procedures set forth in § 300.910. This schedule, called the NCP Product Schedule, may be obtained from the Emergency Response Division (OS-210), U.S. Environmental Protection Agency, Washington, DC 20460. The telephone number is 1-202-382-2190.

(2) Products may be added to the NCP Product Schedule by the process specified in § 300.920.

(b) *Hazardous Substance Releases* [Reserved].

§ 300.910 Authorization of use.

(a) The OSC, with the concurrence of the EPA representative to the RRT and, as appropriate, the concurrence of the RRT representatives from the states with jurisdiction over the navigable waters threatened by the release or discharge, and in consultation with the DOC and DOI natural resource trustees, when practicable, may authorize the use of dispersants, surface collecting agents, biological additives, or miscellaneous oil spill control agents on the oil discharge, provided that the dispersants, surface collecting agents, biological additives, or miscellaneous oil spill control agents are listed on the NCP Product Schedule.

(b) The OSC, with the concurrence of the EPA representative to the RRT and, as appropriate, the concurrence of the RRT representatives from the states with jurisdiction over the navigable waters threatened by the release or discharge, and in consultation with the DOC and DOI natural resource trustees, when practicable, may authorize the use of burning agents on a case-by-case basis.

(c) The OSC may authorize the use of any dispersant, surface collecting agent, other chemical agent, burning agent, biological additive, or miscellaneous oil spill control agent, including products not listed on the NCP Product Schedule, without obtaining the concurrence of the EPA representative to the RRT, the RRT representatives from the states with jurisdiction over the navigable waters threatened by the release or discharge, when, in the judgment of the OSC, the use of the product is necessary to prevent or substantially reduce a hazard to human life. The OSC is to inform the