



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IV  
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ATLANTA, GEORGIA 30365

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NAS PENSACOLA  
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Mr. Dwayne Ray  
R Coordinator  
Naval Air Station Pensacola  
Pensacola, FL 32508

**RE:** Administrative Record for CERCLA sites

**Dear** Mr. Ray:

The purpose of this letter is to provide guidance to Federal facilities in EPA's Region IV on the development and maintenance of the Administrative Record (AR) supporting site remediation. In order to provide consistency within the Region, BPA requests that all Federal facilities use the same Administrative Records index that BPA has established and which is described below.

Section 113(k)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires the establishment of an Administrative Record (AR). Federal Agencies have the responsibility pursuant to Executive Order 12580 to establish Administrative Records for Federal facilities which are under their jurisdiction and where Section 120 of CERCLA governs remedial response actions. The AR file for a Federal facility must contain all documents considered or relied on in selecting a response action(s) including documents submitted for inclusion by EPA. Regulations for the establishment of the AR, as required under Section 113(k)(2)(b) of CERCLA, were proposed in 53 Federal Register 51394 (1988). When fully promulgated ARs must be prepared according to these regulations (Enclosure 1).

The purpose of the Administrative Record is two-fold. First, under 113(j)(2) of CERCLA judicial review of a response decision is limited to the AR. Accordingly the AR must be adequate to support the response decision made by a Federal Agency. The AR should therefore chronicle the response decision process, whereby a reviewing court and other persons could easily follow how and why a decision was made. The second purpose of the AR is to be a vehicle for public participation in the selection of the response action. Section 113(k)(2) of CERCLA clearly provides the public with an opportunity to participate in the response decision(s). Therefore, an AR should also reflect the participation of the public in the remedial process.

Region IV is requesting that all Federal facilities on the National Priorities List (NPL), proposed for the NPL or at which a CERCLA 106 Consent Order has been issued begin to establish an Administrative Record for each CERCLA operable unit as defined in the National Contingency Plan (NCP). Information relevant to more than one operable unit, may be placed in the AR of only one operable unit and then be incorporated by reference in the index of other ARs for the facility.

In addition, we strongly recommend that all Federal facilities proceeding with remedial responses under Section 211 of CERCLA establish ARs as well, due to upcoming revisions of the Hazard Ranking System under which a facility is evaluated for inclusion on the NPL. All Federal facilities in Region IV not currently proposed or listed on the NPL will be rescored using the new Hazard Ranking System. At that time, we anticipate many Federal facilities will be added to the NPL.

By establishing your AR now, you will comply with 40 CFR Section 300.815(a) of the proposed NCP which requires that the AR be made available for public inspection at the commencement of the Remedial Investigation (RI) phase. Region IV currently considers commencement of an RI to occur when an RI/FS Work Plan is approved by this Agency. At that time a Federal facility must publish a notice of availability of the AR file. Under Section 300.815(a) of the proposed NCP, the notice must be published in a major local newspaper of general circulation (Enclosure 2). Region IV considers the general circulation requirement very important and requests that notices not be placed solely in base or other internal newspapers.

Section 113(k)(1) of CERCLA requires that the AR be available to the public at or near the facility. Section 300.805 of the proposed NCP also requires that another copy of the AR be located (by the Federal Agency establishing the AR) at a central location which is equivalent to an EPA regional office. This copy at a central location allows control over the maintenance of the documents. EPA Region IV requests Federal facilities to ensure easy public access to the AR in order to allow meaningful public participation. We suggest that, at military installations, the AR to be located "near or at the facility" be placed off-base in a local library. The number of ARs is not limited and an additional copy may be kept on base for base personnel. According to CERCLA 117(d) 42 U.S.C. §9617 (d) copying facilities must be available at the AR locations.

The AR can be made available to the public on microfiche as long as a microfiche reader and copier are available at the AR location. Each AR must be indexed. Moreover, to comply with Section 300.800(b)(3) of the proposed NCP, the Federal facility must submit to EPA Region IV as each is developed a copy of the index of documents, 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 in addition to any other documents BPA may request on a case-by-case basis.

BPA has already established an AR file system for non-federal facility NPL sites in Region IV. EPA recommends all Federal facilities in region IV adopt a similar AR file system. Attached is the file system plan and some suggestions for what type of documents need to be included under a category. The numbering system for the index is shown on the file system plan (Enclosure 3). The index should include:

- \* Document number
- \* Document title (one to two lines for identification)
- \* Author
- \* Recipient
- \* Document date
- \* Document location.

A two-page example taken from a Region IV Index is also included as a guide (Enclosure 4).

The types of documents that should not be placed in the AR are Hazard Ranking System (HRS) scoring packages, contractor work assignments, and cost documentation. In general, draft documents and internal memoranda should not be included in the AR. However, if a response decision was made based on any of the above or if comments on one of the above documents led to the response decision, then it or relevant portions of it should be included in the AR.

Privileged documents, such as confidential business information as defined in 40 CFR Part 2 and the Freedom of Information Act and documents privileged due to national security, that are considered or relied on in a response action selection but are not available for public review must still be placed in a Confidential portion of the central AR. If possible the relevant non-privileged information should be extracted (and/or summarized) and included in the public AR. The AR index should identify the title and location of the privileged document and describe the basis for the asserted privilege. A short (non-privileged) description of the information in the privileged document should be inserted in the portion of the record file available to the public.

General guidance documents, not specifically generated for an operable unit, should be listed in the index with their location but need not be included in the AR if a compendium of guidance documents is maintained at the central location. Also widely available technical literature used in making a response decision should be recorded in the index with their location but need not be placed in the file. Guidance documents and memoranda which are generated for a specific site must be placed in the site-specific administrative record file.

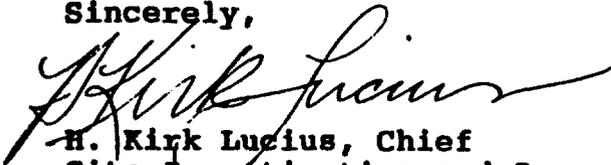
Documents generated or received by the Federal facility after the Record of Decision is signed should not be included in the AR except for the following:

- Documents supporting the choice of a decision left open in the ROD, such as treatment technologies.
- \* Explanation of Significant Differences (ESD), on significant changes made in the response action.
- \* Amended RODs.
- \* Any post-ROD comments or information that played a role in making a significant change.

Current EPA guidance requires that once a ROD is signed an AR must be certified as to its compliance with Federal Regulations. Certification is to be done by the Federal Agency compiling the AR.

A full set of guidance on preparing the AR has been issued as OSWER Directive #9833.3A by the EPA Office of Solid Waste and Emergency Response. A copy of this guidance can be obtained by writing the Office of Waste Programs Enforcement, Office of Solid Waste and Emergency Response, U. S. Environmental Protection Agency, Mail Code OS 500, 401 M St., SW, Washington, D.C. 20460. If we can be of further assistance or provide additional guidance in your preparation of the AR, please contact Nancy Dean at (404) 347-5059 or (FTS) 257-5059.

Sincerely,



H. Kirk Lucius, Chief  
Site Investigation and Support Branch  
Waste Management Division