



Office of Environment, Safety and Health

CERCLA/RCRA Information Brief

DOE/EH-231-009/1191(November 1991)
(Updated January 2006)

The Information Repository

BACKGROUND:

Under Section 117(d) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) information developed, received, published, or made available to the public related to facilities undergoing response actions must be available for public inspection and copying at a location, known as an information repository, at or near the facility. A provision for establishing an information repository also exists under the Resource Conservation and Recovery Act (RCRA). This information brief provides answers to questions about information repositories under these two laws.

STATUTES:

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. 9601, et seq.
Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments Act of 1984 (HSWA), 42 U.S.C. 6901, et seq.

EXECUTIVE ORDERS:

Executive Order (E.O.) 12580 - Superfund Implementation

REFERENCES:

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2. Environmental Protection Agency (EPA). 2003. *RCRA Orientation Manual*. EPA 530-R-02-016, January.
<http://www.epa.gov/epaoswer/general/orientat/r02016.pdf>
3. EPA. Office of Solid Waste and Emergency Response. 2000. *Public Involvement in Environmental Permits. A Reference Guide*. EPA-500-R-00-007. August. <http://www.epa.gov/permits/publicguide.pdf>
4. DOE. Office of Environmental Policy and Assistance, RCRA/CERCLA Division (EH-413). 1997. *RCRA Expanded Public Participation Final Rule Issued*. January 31.
http://www.eh.doe.gov/oepa/guidance/rcra/public_p.pdf
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What is an information repository?

Under CERCLA an information repository is a collection of copies of all the information related to a response action (i.e., a remedial or removal action) that has been made available to the public (40 Code of Federal Regulations [CFR] 300.430). This contrasts with the administrative record (see RCRA/CERCLA information brief: *The Administrative Record*, DOE/EH-231-010/1191 [updated January 2006]) that contains only those documents that form the basis for selecting a response action.

Under RCRA an information repository is a collection of documents related to a permitting activity or corrective action (40 CFR 124.33).

Is an information repository always required?

Under CERCLA an information repository must be established for all DOE remedial response sites [40 CFR 300.430(c)(1)] and at all removal sites where on-site actions are expected to extend beyond 120 days from their initiation [40 CFR 300.415(n)(3)(iii)].

Under RCRA information repositories are not mandatory. However, in certain circumstances the permitting agency (i.e., either EPA or the state) can require a facility to establish one at any point during the permitting process (40 CFR 124.33) or during the active life of the facility (40 CFR 270.30), e.g., if EPA anticipates a significant amount of public concern or where a community has a significant need for additional access to information.

What type of information is required in an information repository?

Under CERCLA an information repository must include facts about the site and the CERCLA program, descriptions of the response action(s) at the facility, and material on technical assistance grants that are available to the public. The documents in the information repository may overlap with those in the administrative record, but the information repository may contain additional items (e.g., press releases) that are of interest to the public but that do not form the basis of the response selection.

Thus, other items that may be part of an information

repository include the following:

- press releases and fact sheets about the response action(s);
- reports on site activities, such as the community relations plan, draft and final feasibility study reports, remedial investigation/feasibility study work plan, remedial investigation report, remedial design work plan, federal facility agreement, and a responsiveness summary;
- site sampling results;
- pertinent statutes, regulations, and guidance; and
- DOE's environmental restoration program documents (e.g., five-year and site-specific plans).

Under RCRA if the permitting agency requires a repository, it will decide, on a case-by-case basis, what materials it should include.

Items that may be found in a RCRA information repository include:

- background information on the facility;
- fact sheets about the permitting or corrective action process, the draft permit, or the correction action plan;
- reports prepared as part of facility investigations;
- a notice of decision;
- responses to comments;
- copies of relevant guidance and regulations;
- site sampling results;
- press releases and newspaper articles;
- names and phone numbers of contact persons at the facility and at the permitting agency; and
- any other relevant material (e.g., published studies on the potential risks associated with specific chemicals that are stored at the facility).

Who is responsible for establishing and maintaining the information repository?

Under E.O. 12580 DOE has lead responsibility for **CERCLA** response actions at its facilities. Thus, DOE must establish and maintain the information repository, unless otherwise specified in a site-specific interagency agreement or federal facility agreement.

Under RCRA a permitted DOE facility must establish an information repository if the permitting

agency (either EPA or an authorized State) requires it. However, a new information repository may not be needed if one exists at a facility and is responsive to the public interest. New documents should be added to the RCRA repository as soon as they are available.

Where should a repository be located?

Under CERCLA DOE must locate the repository where it is easily accessible to the public (i.e., where a security clearance is not required for entrance). Typical locations for information repositories include, but are not limited to: public libraries, town halls, EPA regional offices, and the DOE facility itself. Since their contents often overlap, the information repository may be located in the same place as the administrative record file. In addition, if there is sufficient public interest, more than one information repository may be established.

Under RCRA the location of an information repository will depend on the type of permitted activity. It should, however, be conveniently located and accessible to people in the community. It may be located at the DOE facility if it is feasible and the public is comfortable about coming onto facility property. However, if not feasible or if members of the community feel uncomfortable at the facility, the repository should be located in a suitable public off-site location (e.g., local public library, town hall, public health office) within a reasonable distance of the facility.

When should an information repository be established?

Under CERCLA the time to establish the information repository depends upon the type of response action. For *remedial investigations* the information repository must be established before the remedial investigation field work begins (including interim remedial actions). For all *removal actions requiring more than 120 days to complete*, an information repository must be established by the end of the 120-day period. For *non-time-critical removals* (i.e., those that will start 6 months from date of discovery), the information repository must be established prior to completion of the engineering evaluation/cost analysis. Since their contents may overlap, the information repository may be established at approximately the same time as the administrative record file. (See RCRA/CERCLA Information Brief,

The Administrative Record, DOE/EH-231-010/1191 [updated January 2006].)

Under RCRA the permitting agency may require DOE to establish an information repository at any time during the permitting process or during the active life of the facility. When established, a notice of the existence of the repository identifying its location and hours of availability should be sent to stakeholders and other interested individuals and organizations.

What are the provisions for documents containing privileged, confidential, or classified information?

Under CERCLA confidential, privileged, or classified documents will not be included in the information repository.

Under RCRA the exclusion of confidential, privileged, or classified information from information repositories is not specifically addressed. Therefore, DOE must ensure that confidential, privileged, or classified documents will be treated in the same way as such material is treated under the rules for inclusion in the administrative record.

EH-43 Information Briefs are based on established federal environmental regulatory requirements, policies, and guidance. These documents do not institute new DOE policy or address issues requiring DOE policy decisions.

Please refer any questions concerning the subject material covered in this Information Brief to:

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