



State of Ohio Environmental Protection Agency

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10-2948
43-7102
George V. Voinovich
Governor

March 7, 1994

RE: SHIELDALLOY METALLURGICAL
GUERNSEY COUNTY
DERR CORRESPONDENCE

The Honorable Robert Burch
The State Senate
State Capital
Columbus, Ohio 43266-0604

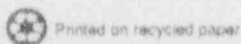
Dear Senator Burch:

This letter regards the Shieldalloy Metallurgical (SMC) site in Guernsey County, Ohio. In a December, 1993 telephone discussion, you requested that Ohio EPA establish a document repository in Cambridge, Ohio to enable local citizens to stay informed about the activities at the SMC site. A local citizen has made a similar request to Ohio EPA. Ohio EPA routinely establishes information repositories in municipalities where the Division of Emergency and Remedial Response (DERR) is actively involved with the investigation and cleanup of an unregulated hazardous waste site.

The Shieldalloy site has a high priority on Ohio EPA's Master Sites List (MSL), and there are several regulatory agencies involved in addressing the environmental problems at the site. For the past three years, Ohio EPA has been actively providing oversight reviews of documents submitted to the Nuclear Regulatory Commission (NRC) by SMC and has been participating in meetings and discussions between NRC, USEPA, Army Corps of Engineers (COE), Ohio Department of Health (ODH), and SMC. We agree that an information repository for the SMC site will be beneficial and appropriate. A repository will thus be established in Cambridge, Ohio.

Ohio EPA will follow the guidelines for information repositories as outlined in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) 40 CFR Part 300. Subpart I, Section 300.800 through Section 300.810 are the sections of the NCP that will be utilized in establishing the information repository in Cambridge, Ohio. I have attached to this letter a copy of the cited NCP sections for your convenience.

Ohio EPA will be coordinating with the NRC on the content of the repository to reduce duplication of documents. It is important to note that the repository will not be a satellite file for the SMC site. Consistent with the NCP, only those documents that directly affect the ultimate selection of a remedial action at the site will be included in the repository.



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The Honorable Robert Burch
March 7, 1994
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It is anticipated that the information repository will be established by the beginning of April 1994. I hope that this letter has adequately addressed the issue you raised in December 1993. Should you have any questions regarding this letter, the repository, or the SMC site, please call me at 614-385-8501.

Sincerely,

David Hunt

David Hunt
Site Coordinator
Division of Emergency & Remedial Response

cc: Laura Powell, Director's Office
Jenifer Kwasniewski, DERR-CO
Catherine Stroup, Legal-CO
Shelby Thurman-Jackson, PIC-CO
Chad Glenn, NRC-Washington D.C.
Sherwood Bauman, Citizen of Guernsey County

Thursday
March 8, 1990

Part II

**Environmental
Protection Agency**

40 CFR Part 300
National Oil and Hazardous Substances
Pollution Contingency Plan; Final Rule

(ii) State governments, and their political subdivisions, unless they are potentially responsible parties covered by an order or consent decree pursuant to section 122 of CERCLA; and

(iii) Persons operating under a procurement contract or an assistance agreement with the United States with respect to matters covered by that contract or assistance agreement, unless specifically provided therein.

(2) In order to be reimbursed by the Fund, an eligible person must notify the Administrator of EPA or designee prior to taking a response action and receive prior approval, i.e., "preauthorization," for such action.

(3) Preauthorization is EPA's prior approval to submit a claim against the Fund for necessary response costs incurred as a result of carrying out the NCP. All applications for preauthorization will be reviewed to determine whether the request should receive priority for funding. EPA, in its discretion, may grant preauthorization of a claim. Preauthorization will be considered only for:

(i) Removal actions pursuant to § 300.415;

(ii) CERCLA section 104(b) activities; and

(iii) Remedial actions at National Priorities List sites pursuant to § 300.435.

(i) To receive EPA's prior approval, the eligible person must:

(i) Demonstrate technical and other capabilities to respond safely and effectively to releases of hazardous substances, pollutants, or contaminants; and

(ii) Establish that the action will be consistent with the NCP in accordance with the elements set forth in paragraphs (c)(5) through (8) of this section.

(5) EPA will grant preauthorization to a claim by a party it determines to be potentially liable under section 107 of CERCLA only in accordance with an order issued pursuant to section 106 of CERCLA, or a settlement with the federal government in accordance with section 122 of CERCLA.

(6) Preauthorization does not establish an enforceable contractual relationship between EPA and the claimant.

(7) Preauthorization represents EPA's commitment that if funds are appropriated for response actions, the response action is conducted in accordance with the preauthorization decision document, and costs are reasonable and necessary.

Reimbursement will be made from the Fund, up to the maximum amount provided in the preauthorization decision document.

(8) For a claim to be awarded under section 111 of CERCLA, EPA must certify that the costs were necessary and consistent with the preauthorization decision document.

(c) *Section 106(b) petition.* Subject to conditions specified in CERCLA section 106(b), any person who has complied with an order issued after October 16, 1980 pursuant to section 106(a) of CERCLA, may seek reimbursement for response costs incurred in complying with that order unless the person has waived that right.

(f) *Section 123 reimbursement to local governments.* Any general purpose unit of local government for a political subdivision that is affected by a release may receive reimbursement for the costs of temporary emergency measures necessary to prevent or mitigate injury to human health or the environment subject to the conditions set forth in 40 CFR part 310. Such reimbursement may not exceed \$25,000 for a single response.

(g) *Release from liability.* Implementation of response measures by potentially responsible parties or by any other person does not release those parties from liability under section 107(a) of CERCLA, except as provided in a settlement under section 122 of CERCLA or a federal court judgment.

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