

## Environmental Protection Agency

## § 300.825

mechanisms to give adequate notice to a community 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.

[55 FR 8859, Mar. 8, 1990, as amended at 80 FR 17706, Apr. 2, 2015]

### **§ 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 or use one or more other mechanisms to give adequate notice to a community 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 sub-

mitted 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 or use one or more other mechanisms to give adequate notice to a community of the 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.

[55 FR 8859, Mar. 8, 1990, as amended at 80 FR 17706, Apr. 2, 2015]

### **§ 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,

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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

EFFECTIVE DATE NOTE: At 88 FR 38333, June 12, 2023, the Subpart J heading was revised, effective Dec. 11, 2023. For the convenience of the user, the revised text is set forth as follows:

### Subpart J—Use of Dispersants, and Other Chemical and Biological Agents

SOURCE: 59 FR 47453, Sept. 15, 1994, unless otherwise noted.

#### § 300.900 General.

(a) Section 311(d)(2)(G) of the CWA requires that EPA prepare a schedule of dispersants, other chemicals, and

other spill mitigating devices and substances, 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.

EFFECTIVE DATE NOTE: At 88 FR 38333, June 12, 2023, § 300.900 was amended by revising paragraphs (a) and (c), and by adding paragraph (d), effective Dec. 11, 2023. For the convenience of the user, the revised and added text is set forth as follows:

#### § 300.900 General.

(a) Section 311(d)(2)(G) of the Clean Water Act (CWA) requires EPA to prepare a schedule identifying dispersants, other chemicals, other spill mitigating devices and substances, if any, that may be used in carrying out the NCP; and the waters and quantities in which they may be used safely. This subpart establishes a schedule that includes the NCP Product Schedule identifying chemical and biological agents, the Sorbents Product List, and the authorization of use procedures that, when taken together, identify the waters and quantities in which such dispersants, other chemicals, or other spill mitigating devices and substances may be used safely.

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(c) This subpart applies to the use of chemical and biological agents as defined in Subpart A of this part, or other substances that may be used to remove, control, or otherwise mitigate oil discharges.

(d) [Reserved]

#### § 300.905 NCP Product Schedule.

(a) *Oil Discharges.* (1) EPA shall maintain a schedule of dispersants and