



DEPARTMENT OF THE ARMY
U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

REPLY TO
ATTENTION OF:

JUL 26 1991

CEIM-PD (25-1a)

MEMORANDUM FOR All USACE Commands, ATTN: Commanders and
Directors

SUBJECT: Interim Policy Guidance Regarding the Retention of
Environmental Restoration Records

1. References:

a. 44 U.S.C. 3101. This statute requires Federal agencies to create and preserve Federal records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. This includes records that protect the legal and financial rights of the government and of persons directly affected by the agency's activities.

b. AR 25-400-2, Modern Army Recordkeeping System (MARKS).

c. AR 25-1, The Army Information Resource Management Program, Chapter 8.

d. Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

e. Superfund Amendments and Reauthorization Act of 1986 (SARA).

f. Ontyme Message, N83259, 3 Aug 89, subject: Site Specific Files for Environmental Protection Agency Superfund Work Placed with the U.S. Army Corps of Engineers (Encl 1).

g. Memorandum, CERM-FP, 31 Jan 90, subject: Site Specific Files for Environmental Protection Agency Superfund Work Placed with the U.S. Army Corps of Engineers (Encl 2).

2. Reference 1.d established the Superfund to provide monies for the identification and cleanup of the nation's uncontrolled hazardous waste sites. Reference 1.e provides for the recovery from responsible parties of all costs incurred by the Federal government for Superfund and non-Superfund environmental cleanup actions. EPA desires that USACE maintain adequate program documentation to allow successful recovery by EPA of Superfund financed project costs. Additionally, pursuant to SARA, USACE can similarly recover cleanup costs for remedial actions funded by the Defense Environmental Restoration Account (DERA), and by Civil Works appropriations.

CEIM-PD

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3. A critical element underlying successful cost recovery, however, is being able to locate and retrieve environmental restoration program records to ensure the defensibility of USACE and EPA remediation costs if challenged in cost recovery litigation. Despite approximately two years of notices and reminders, we are still receiving reports that records are not being maintained properly for the EPA Superfund financed projects.

4. The purpose of this memorandum is to obtain your support in ensuring this issue is resolved for both USACE and EPA projects. All USACE Commands will maintain all records pertaining to environmental restoration actions "permanently" until final guidance can be issued. Within the Corps, this covers all environmental records relating to Superfund, DERP, and Civil Works funded environmental restoration actions, as well as any environmental restoration action performed for other Non-DOD agencies. The office of record is responsible for ensuring these records are properly maintained.

5. Enclosure 3 includes a list of the types of records that are to be maintained under this guidance. This list should not be interpreted as an all-inclusive list, but merely used as a guide. Your staff may use the MARKS 200 series for project technical records, the 37 series for financial records, and the 1100 series for contract records. Please note that the disposition for the described records becomes "permanent" when they pertain to environmental restoration.

6. I am making a personal appeal to each of you to get actively involved in this effort because without sufficient evidence of our environmental restoration costs, our future efforts to seek cost recovery from those responsible for the contamination can not be successful. Please have your local Information Management Office/Records Manager coordinate with Counsel to ensure that needed records are properly preserved.

CEIM-PD

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7. HQUSACE points of contacts are:

a. Records Management: Kenneth Marquis, CEIM-PD, 202-272-0712.

b. Resource Management (Functional Proponent): James Short, CERM-FP, 202-272-1927.

c. Legal Issues: William Sapp, CECC-C, 202-272-0021.

3 Encl
as



H. J. HATCH
Lieutenant General, USA
Commanding

CF:

All Records Administrators and Records Managers
All Resource Managers
All Contracting Officers *

* Note: It is the responsibility of all Contracting Officers to furnish each of their Program Managers a copy of this interim policy guidance.