

CERCLA Overview

CERCLA

- Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 USC 9601 et seq.)
- Amended by the Superfund Amendments and Reauthorization Act (SARA) in 1986
- CERCLA and SARA provide for:
 - Remedial action at inactive or abandoned waste sites
 - Removal of spills of hazardous substances
 - The reporting of releases to the environment of hazardous substances, and
 - Natural resource damage assessments.
- A waiver of sovereign immunity appears in CERCLA. EPA's regulations are in 40 CFR 300-302.

CERCLA continued...

- Definition of hazardous substance:
 - "...means (A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of this Act, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [RCRA] (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act [CWA], (E) any hazardous air pollutant listed under section 112 of the Clean Air Act, and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to Section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas)."

CERCLA continued...

- Hazardous substances under CERCLA include RCRA hazardous wastes, as well as substances considered hazardous under the CAA, CWA, and TSCA.
- Radionuclides are hazardous air pollutants under the CAA so they are hazardous substances
- Oil and natural gas liquids are not hazardous substances

CERCLA continued...

- Spill response does address oil and hazardous substances under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) which is found in 40 CFR 300
- Responses under CERCLA include:
 - Emergency removal actions
 - On Scene Coordinator using warrant authority or Action Memorandum (after the fact)
 - Time-critical removal actions
 - Spill response, On Scene Coordinator, must be initiated within 6 months, Action Memorandum
 - Non-time critical removal actions
 - EE/CA goes out to public comment, Action Memorandum (>6 month planning window)
 - Remedial actions
 - RI/FS, Proposed Plan for public comment, Record of Decision

CERCLA continued...

- National Priorities List
 - Preliminary Assessment/Site Investigation
 - Hazard Ranking
- Who pays
 - Superfund
 - Potentially Responsible Parties
 - Federal Facilities (DOE, DoD)
- Federal Facility Agreement and Consent Order

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RCRA

RCRA Facility
Assessment
(RFA)

RFI/CMS Work Plan

RCRA Facility
Investigation
(RFI)Corrective
Measures Study
(CMS)Draft
Permit
ModificationPublic
CommentRCRA
PermitCorrective Measures
Implementation
(CMI)

CERCLA

Preliminary Assessment/
Site Investigation
(PA/SI)

RI/FS Work Plan

Remedial
Investigation
(RI)Feasibility
Study
(FS)Proposed
PlanPublic
CommentRecord of
DecisionRemedial Design/
Remedial Action
(RD/RA)

GOAL

Identify Releases
Needing Further
InvestigationA Plan for Development
of the
RFI/CMS, RI/FS StudyCharacterize
Nature, Extent, and
Rate of ReleaseEvaluate Alternatives
and Identify Preferred
RemedyPropose
Selected
RemedyPublic
ParticipationAuthorize
Selected
RemedyDesign and
Implement Chosen
Remedy

CERCLA continued...

- Nine Criteria for Remedial Action Alternative Selection
 - Threshold criteria
 - Overall Protection of human health and environment
 - Compliance with Applicable or Relevant and Appropriate Requirements (ARARs) from other laws and regulations
 - Balancing criteria
 - Long-term effectiveness and permanence
 - Reduction of toxicity, mobility, or volume through treatment
 - Short-term effectiveness
 - Implementability
 - Cost
 - Modifying criteria
 - State acceptance
 - Community acceptance

CERCLA continued...

- Remedial Action Objectives
- Site conceptual model
- Reasonably anticipated land use
- Exposure scenarios
- Baseline risk assessment (for final actions)
- Remedy construction and operational and functional
- Institutional controls
- Operations and maintenance and monitoring
- Five-Year Review

State's Role in CERCLA

- Workload sharing in Federal Facility Agreement

Site Closeout

- For individual CERCLA operable units – final inspection and remedial action report or equivalent
- For entire NPL site – Preliminary and final closeout reports and deletion from NPL?