

April 2020

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET (“DOCKET”) DEPARTMENT OF ENERGY

BACKGROUND

The U.S. Environmental Protection Agency (EPA) is responsible for maintaining a *Federal Agency Hazardous Waste Compliance Docket* (“Docket”), pursuant to Section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA).

The Docket contains a list of Federal facilities which are managing or have managed hazardous waste or from which a reportable quantity of hazardous substances, pollutants, or contaminants has been released.

In accordance with the CERCLA statute, EPA is required to publish and update the Docket every six months. The updates identify Federal facilities not previously listed on the Docket (“additions”), along with changes necessary to correct the information included in the Docket (“corrections”) and “deletions” of Federal facilities, as appropriate.

PURPOSE OF THE DOCKET

The Docket serves three major purposes:

- 1) To identify all Federal facilities that must be evaluated to determine whether they pose a risk to human health and the environment. In some cases this is sufficient enough to warrant inclusion on the National Priorities List (NPL) (<https://www.epa.gov/superfund/superfund-national-priorities-list-npl>);
- 2) To compile and maintain the information submitted to EPA on such facilities under the provisions listed in CERCLA Section 120(c); and
- 3) To provide a mechanism to make the information available to the public.

DOCKET INFORMATION SOURCES

The Docket contains information submitted by Federal facilities to EPA pursuant to:

- **RCRA Section 3005** [*Permits for Treatment, Storage, or Disposal of Hazardous Waste (HW)*]
 - Establishes a permitting system for HW treatment, storage, and disposal (TSD) facilities.
- **RCRA Section 3010** [*Effective Date/notification of HW activity*]
 - Requires waste generators, transporters, and TSD facilities to notify EPA of their HW activity.
- **RCRA Section 3016** [*Inventory of Federal Agency Hazardous Waste Facilities*]
 - Requires Federal agencies to submit an inventory to EPA of their HW facilities (on a biennial basis).
- **CERCLA Section 103** [*Notices, Penalties*]
 - Requires that the owner or operator of a vessel or facility notify the National Response Center of any spill or other release of a hazardous substance that equals or exceeds a reportable quantity (Section 103(a)).

- Requires facilities that have “stored, treated, or disposed of” hazardous substances and where there is “known, suspected, or likely releases” of hazardous substances to report their activities to EPA (Section 103 (c)).

In addition to the above reporting authorities, EPA could also become aware of a release or potential release through previously submitted Preliminary Assessment (PA) reports, Site Inspection (SI) reports, or reports under a Federal agency restoration program (in instances where these facilities may not have notified EPA under CERCLA section 103).

ASSESSMENT AND EVALUATION OF FACILITIES LISTED ON THE DOCKET

CERCLA Section 120(d), *Assessment and Evaluation*, requires EPA to:

- Take steps to assure that a PA is conducted for each facility on the Docket;
- Evaluate each facility (after a PA has been conducted) in accordance with the criteria established pursuant to CERCLA Section 105, National Contingency Plan; and
- Include these facilities on the National Priorities List (NPL), if the facility meets such criteria.

REGULATORY OVERVIEW

The Department of Energy’s (DOE) responsibilities regarding the Docket are contained in Executive Order (E.O.) 12580, *Superfund Implementation* (<https://www.archives.gov/federal-register/codification/executive-order/12580.html>). The E.O. delegates specific authorities to DOE regarding CERCLA, as well as response and related authorities/enforcement at DOE sites. Additionally, the E.O. provides the investigative authority to DOE over their sites for conducting PAs, and as appropriate, a SI. A determination of what action to take after a site is listed on the Docket is an effort led by the EPA.

The EPA’s *Superfund Program Implementation Manual Fiscal Year 2020* (<https://www.epa.gov/superfund/superfund-program-implementation-manual>) provides standardized and common definitions for Superfund (CERCLA) program accomplishments and processes for planning and tracking these accomplishments through program targets and measures. EPA outlines how it implements oversight at Federal facilities within the Superfund Program Implementation Manual (SPIM). The SPIM is updated annually by EPA, but can be revised during the year if needed. DOE sites should review the appropriate sections of the SPIM in order to gain insights on when and under what circumstances the regulator may identify a site as needing further information (e.g., a PA or SI) in the Docket. *Chapter IX: Federal Facility Program* of the SPIM, contains most information needed by DOE sites to accommodate Docket requests.

The most common requirement on the Docket DOE sites encounter is the need for a site to conduct a PA or SI. The SPIM outlines detailed descriptions of what should be included in the document and timeframes the information should be completed by and submitted to regulatory authorities. Sites should note these required actions typically have a designated timeline to assure they are conducted in a timely manner. DOE’s Office of Office of Environmental Protection and ES&H Reporting (AU-20) is provided a list of all sites that have open items on the Docket by the EPA Federal Facilities Restoration and Reuse Office (FFRRO) twice a year.

DOE SITES REQUIRING FURTHER ACTION

According to the information currently included in the Docket, EPA has identified a number of DOE facilities that require “some sort of action on DOE’s part.” Typically, these DOE facilities will need to perform/complete a PA or SI.

FFRRO recommends that, before initiating any further action within the Federal Facility Site Assessment Process, these identified facilities coordinate with the appropriate EPA Regional Docket Coordinator (RDC) to get clarification and confirm the specific action and/or next steps required in the site assessment process. FFRRO also notes that final reports should be submitted to the appropriate RDC (i.e., not EPA HQ). The appropriate RDC for your site can be found at: <https://www.epa.gov/fedfac/coordinators-federal-agency-hazardous-waste-compliance-docket>.

AU-20 will continue to coordinate with FFRRO regarding DOE information contained in the Docket. AU-20 is available to provide technical assistance and/or support to affected DOE sites included on the Docket listing. The personnel listed at the end of this Information Brief are available to assist upon request.

For questions regarding this Information Brief, please contact:
Alicia Williamson at Alicia.Williamson@hq.doe.gov or 202-586-7272
or Ashley Ruocco at Ashley.Ruocco@hq.doe.gov or 301-903-7010