



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA-HQ-SFUND-2014-0733; FRL-9918-52-OSWER]

National Oil and Hazardous Substances Pollution Contingency Plan;

Technical Amendment to Update Data Management System Nomenclature

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Effective January 31, 2014 the EPA Superfund program decommissioned the Comprehensive Environmental Response Compensation and Liability Act Information System (CERCLIS) and adopted a new, more comprehensive data management system. The new data management system, the Superfund Enterprise Management System (SEMS), serves as a more powerful, integrated platform. Consistent with this action, this direct final rule makes appropriate conforming terminological changes to our regulations. This direct final rule also adds a minor clarification to the description of the remedial preliminary assessment.

DATES: This rule is effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice,

unless EPA receives adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-SFUND-2014-0733, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- Email: superfund.docket@epa.gov
- US Postal Mail: U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Superfund Docket, Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- Hand Delivery: EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Attention Docket ID No. EPA-HQ-SFUND-2014-0733. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-SFUND-2014-0733. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the

comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or email. The www.regulations.gov web site is an ``anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard

copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Superfund Docket (Docket ID No. EPA-HQ-SFUND-2014-0733). This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Superfund Docket telephone number is (202) 566-0276. EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Jennifer Hovis at (703) 603-8888 (hovis.jennifer@epa.gov), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460-0002, Mail Code 5202P.

SUPPLEMENTARY INFORMATION:

I. Why is EPA using a direct final rule?

EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action related to internal agency operations and anticipate no adverse comment as this action merely makes nonsubstantive changes to reflect new data management system nomenclature and adds minor clarifying text to a description in the NCP that will make the regulations more accurate.

In the ``Proposed Rules" section of today's Federal Register, we are also publishing a separate proposed rule reflecting the changes described above. If adverse comments are received on this direct final rule, EPA will not institute a

second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the ADDRESSES section of this document. If EPA receives significant adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that this direct final rule will not take effect. We would address all significant public comments in any subsequent final rule based on the proposed rule.

II. What should I consider as I prepare my comments for EPA?

A. Submitting Confidential Business Information (CBI). Do not submit this information to EPA through www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2.

B. Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
- Follow directions--The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible.
- Make sure to submit your comments by the comment period deadline identified.
- Comments are only being solicited on the NCP revisions updating the data system nomenclature changes from CERCLIS to SEMS and the addition of clarifying text to the remedial preliminary assessment description. Therefore, comments are not being requested on other unmodified sections

of the NCP nor on EPA's internal operational decision to update Superfund's data management system, and such comments will not be considered if submitted.

III. Background

A. What is CERCLA?

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675 ("CERCLA" or "the Act"), in response to releases or substantial threats of releases of hazardous substances into the environment or releases or substantial threats of releases into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare.

B. What is the National Contingency Plan?

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases or substantial threats of releases of hazardous substances into the environment and releases or substantial threats of releases into the environment of any pollutant or contaminant that may present an imminent or substantial danger to the public health or welfare. EPA has revised

the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

C. How does Superfund track and manage its data?

The Superfund program maintains a comprehensive data management system that inventories and tracks releases of hazardous substances addressed or needing to be addressed. The Superfund data management system, SEMS, contains the official inventory of CERCLA sites and supports EPA's site planning, tracking and national program performance reporting functions. It includes site assessment, remedial, federal facility and enforcement program data. Inclusion of a specific site or area in SEMS does not represent a determination of any party's liability, nor does it represent a finding that any response action is necessary.

D. Why did EPA change its Superfund data management system?

The new Superfund data management system, SEMS, integrates multiple legacy Superfund data collection, reporting and tracking systems, including CERCLIS, into a single system for one primary source of Superfund site activity data, records, and accomplishment documentation. The new Superfund data management system also consolidates the Superfund program's disparate technical assets into a national management system with a single architecture on an agency platform. The new system is adaptable to shifting

programmatic priorities and changing operational needs, and can better address the growing demands of content management and data exchange.

E. What does this amendment do?

This direct final rule revises the Operational Abbreviations section (40 CFR 300.4(b)) and the Definitions section (40 CFR 300.5) of the NCP to reflect terminological changes necessary for consistency with EPA's transition from CERCLIS as the Superfund program's planning and tracking data management system to SEMS. This rule also amends the Remedial preliminary assessment description (40 CFR 420(b)) to clarify that the Preliminary Assessment (PA) is performed on only those sites that have been entered into the SEMS remedial assessment active inventory.

F. What is the basis for this amendment?

CERCLA's passage in 1980 launched the Superfund program that provided EPA the authority needed to respond to threats posed by the uncontrolled releases of hazardous substances into the environment. The fundamental purpose of the Superfund program is to address threats and protect human health and the environment from releases or potential releases of hazardous substances from abandoned or uncontrolled hazardous waste sites. To effectively implement the Superfund program, it is necessary to maintain a repository of planning and accomplishment data, including resource planning estimates and program targets and measures. The updated Superfund information

system also meets the requirements of U.S. Code Title 44, §3506 (a)(1)(A) which direct federal agencies to be responsible for “carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness...”.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011), this action is not a “significant regulatory action” and is therefore not subject to OMB review. This action merely deletes an obsolete reference to a retired information system and adds minor clarifying text to a description in the NCP. This action does not impose any requirements on any entity, including small entities. Therefore, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), after considering the economic impacts of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not contain any unfunded mandates or significantly or uniquely affect small governments as described in Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104-4). This action does not create new binding legal requirements that substantially and directly affect Tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). This action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999). Because this action has been exempted from

review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., nor does it require any special considerations under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. The Congressional Review Act, 5 U.S.C. 801 et seq., generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Because this action does not contain legally binding requirements, it is not subject to the Congressional Review Act.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Oil

pollution, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 28, 2014.

Mathy Stanislaus,
Assistant Administrator,
Office of Solid Waste and Emergency Response.

For the reasons set out in this document, 40 CFR Part 300 is amended as follows:

**PART 300— NATIONAL OIL AND HAZARDOUS SUBSTANCES
POLLUTION CONTINGENCY PLAN**

1. The authority citation for Part 300 continues to read as follows:

AUTHORITY: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

§ 300.4 [Amended]

2. Amend §300.4, paragraph (b), by adding in alphabetical order the term “SEMS—Superfund Enterprise Management System”.

3. Amend § 300.5 by revising the definition “CERCLIS” and adding in alphabetical order the definition “SEMS” to read as follows:

§ 300.5 Definitions.

* * * * *

CERCLIS was the abbreviation for the CERCLA Information System.

This system has been retired and has been replaced with SEMS, the Superfund Enterprise Management System.

* * * * *

SEMS is the abbreviation for the Superfund Enterprise Management System. SEMS is EPA's comprehensive data management system that inventories and tracks information about releases addressed or needing to be addressed by the CERCLA Superfund program. SEMS consolidates legacy systems including CERCLIS into a single integrated platform. SEMS contains information for potential and confirmed hazardous waste sites addressed under the Superfund remedial and removal programs. SEMS includes sites in the active site inventory and archived sites. The active site inventory includes sites on the NPL, and sites not on the NPL where site assessment, removal, remedial, enforcement, cost recovery, or oversight activities are being planned or conducted. Archived sites include non-NPL sites that were formerly in the active site inventory which have no further site assessment, removal, remedial, enforcement, cost recovery or oversight needed under the federal Superfund program based on available information. New information may warrant return of an archive site to the active inventory. Inclusion of a specific site or area in SEMS does not represent a

determination of any party's liability, nor does it represent a finding that any response action is necessary.”

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4. Amend § 300.420 by revising paragraph (b)(1) introductory text to read as follows:

§ 300.420 Remedial site evaluation.

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(b) *Remedial preliminary assessment.* (1) The lead agency shall perform a remedial PA on all sites entered into the SEMS remedial assessment active inventory as defined in § 300.5 to:

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[FR Doc. 2014-26160 Filed 11/04/2014 at 8:45 am; Publication Date:
11/05/2014]