

SESSION 5.4: DOCUMENTATION REQUIREMENTS

I. INTRODUCTION

Documentation is an extremely important aspect of the hazardous waste substance management process and highway project development. The liability aspects have already been discussed in Section IV of the course. Here we consider administration, environmental, and technical documentation requirements specific to the location/planning/environment phases.

II. ADMINISTRATIVE (PROJECT RECORD)

A considerable amount of information may be generated during completion of the ISA and PSI. In particular, information generated during the records search could be quite extensive. Therefore, collected information and reports must be submitted to the appropriate SHA operating units. Also, depending on the type of project, this information must be logged so that a record of its existence can be tracked as the project develops. Of particular importance will be providing the appropriate information to SHA right-of-way and design units to alert them to specific hazardous waste/substances sites that may need to be considered during these later stages of highway project development. SHAs are encouraged to review their current record-keeping practices to ensure that information generated by hazardous waste/substance investigations during this phase of the highway development process is forwarded to the appropriate operating units. Finally, SHA project tracking management systems may need to be modified to incorporate hazardous waste site identification records so that project schedules can be adjusted accordingly and appropriate action steps can be taken to minimize project delays.

In addition to maintaining a complete in-house administrative record, it is also imperative that SHAs recognize the need to provide selected information to the state/federal regulatory agencies on hazardous sites and under what conditions this information must be provided. During the location/planning/environment phases, SHAs are encouraged to advise regulators of the ISA and PSI results. Specifically, regulators should be made aware of what investigations were made, the findings, and what actions were taken so that in the event a private party suit is initiated by the landowner against the SHA for whatever reason, the regulatory agency will have an administrative record it may consult and use in any judicial proceedings or enforcement actions.

If the SHA becomes a PRP or is planning to take on the liability of a PRP, it is important that the regulatory agency's administrative record, which must be kept for all identified sites (as mandated by CERCLA), contains all relevant information and data that document SHA actions involving background studies and studies which led up to the identification of remediation alternatives. This will ensure that when regulators sign off on the selected remedy (which will be based on their own agency administrative record and not the SHA's), they will have considered all appropriate facts. As has been demonstrated in the courts, if a dispute were to arise over the remedy selection or over other court-initiated matters, the court decisions have almost always favored the regulatory agency even if the regulatory agency's administrative record is incomplete.

III. HAZARDOUS WASTE DOCUMENTATION IN ENVIRONMENTAL DOCUMENTS (EISs, EAs, AND FONSIs)

FHWA has provided the following guidance regarding the hazardous waste-related information needed in environmental documents (FHWA Interim Guidance 1988):

"If project development includes consideration of an alternative(s) with hazardous waste involvement, the assessment and sampling/testing needed to adequately characterize the site and estimate (emphasis added) costs, need to be completed before a project alternative is selected. The type, extent, and cleanup costs of any substantial contamination are major factors in selecting an alternative.

When dealing with a hazardous waste site, the results of the above steps and subsequent steps through to completion of site cleanup/disposal need to be thoroughly documented in the project environmental documentation and files, as well as in the project administrative record, and in the administrative record maintained by the EPA/State/local agency. Development of more detailed design for some aspects of hazardous waste issues may be necessary for preparation of environmental documents, to evaluate remedial measures, or to address issues raised by other agencies or the public.

The draft environmental document should provide (Table 5.4.1):

- A map to clearly delineate the extent of the site(s) in relation to alternative project alignments,
- Information on the number and types of sites/structures and the extent of contamination and alternative treatment/disposal measures needed,
- Results of coordination with EPA and State/local agencies and the public including description of the agencies' previous plans, if any, for cleanup of the site(s),
- Sufficient information to allow a reasonable evaluation of alternatives, and
- Justification for not avoiding the site(s).

The final environmental document should, for the preferred alternative,

- Describe the results of continuing coordination with EPA and State/local agencies and public,
- Document the resolution of hazardous waste issues, to the extent possible, and
- To the extent possible, provide a detailed description of the site(s) and contamination, agreed upon treatment/disposal measures, and costs of the remedial plan."

Table 5.4.1. FHWA Checklist for Addressing
Hazardous Substances/Wastes in Environmental
Impact Statements

	Yes	No
• Does the EIS indicate the project was adequately investigated for the presence of known or unknown hazardous substances/wastes in accordance with the Interim HW Guidance (Aug 88) and Technical Advisory 6640.8A? (e.g., land use history, title search, records and aerial photos review, local interviews, coordination with local/state/federal HW authorities, field review of right-of-way and adjacent lands.)	_____	_____
• Does the EIS indicate that hazardous substances or wastes are/may be present?	_____	_____
• If hazardous substances/wastes are present (or likely to be present), does the EIS provide:		
- A map clearly delineating the extent of the site(s) in relation to alternative project alignments?	_____	_____
- Information on the number and types of sites/structures, extent of contamination, and alternative treatment/disposal measures needed (with relative costs)?	_____	_____
- Results of coordination with local/state/federal officials and the public (public if appropriate), including a description of any agency's previous site assessment or cleanup plan?	_____	_____
- Sufficient information to allow a reasonable evaluation of alternatives, including alternatives to avoid or reduce involvement with the site(s)?	_____	_____
- Justification for not avoiding the site? (if the site is not avoided)	_____	_____

The problems associated with conducting hazardous waste investigations at every potential site on multiple alternative alignments are recognized by FHWA. To address this, FHWA recommends using flexibility and sound professional judgement in determining how much analysis is appropriate for a particular site/alignment, influenced by the likelihood of its adoption as the preferred alternative and subsequent construction. The potentially contaminated sites associated with the preferred alternative should receive the most attention and analysis to determine the extent, risks, and costs of each site. However, FHWA suggests caution since hazardous wastes have often been a major influence in determining what project actually is built (i.e., hazardous wastes can drive alternate selection). The State should carefully assess the risk it incurs in deciding to restrict the level of analysis performed at any site.

FHWA Technical Advisory T6640.8A (October 30, 1987), Guidance for Preparing and Processing Environmental and Section 4(f) Documents, details the format requirements for environmental impact statements. A separate section discussing hazardous waste sites is specified in the Guidance. Sample EIS write-ups are included in the handout sets provided at the beginning of the course.

IV. TECHNICAL STUDIES DOCUMENTATION

A. PURPOSE

Documentation of all steps in the hazardous waste process is important to SHA's for a variety of reasons:

1. Identification - Even a small hazardous waste project usually generates a considerable amount, and various types, of correspondence, data, documents, etc. From a management standpoint, a documentation system is necessary simply to identify and categorize these diverse records.
2. Control - Some of the data and information generated during a hazardous waste study may be either proprietary or sensitive. Control of such information, via a formal documentation system, is necessary to prevent access by unauthorized personnel.
3. Evidence - Even where litigation does not seem likely on a project, the high degree of liability and costs associated with hazardous waste involvement increases the probability that litigation may present itself at a future time. For this reason, a formal documentation system is required to organize and control records that may become evidentiary.

B. APPLICABILITY

Documentation requirements on a hazardous waste project apply to a wide variety of different records, including:

- Project Plans - Work Plans, Sampling and Analysis Plan, Site Safety Plan, Community Relations Plan.

- Field Logbooks - Logbooks should include such information as: field work description (in sufficient detail to reconstruct the work by noninvolved persons); field instrument readings; calculations; instrument calibration records; photograph references; sample numbers and labels; meeting information; times and dates of telecons, correspondence, or deliveries of items in the field. Logbooks should be bound, with prenumbered pages, and completed in black, waterproof ink.
- Field Data Records - Extensive records (e.g., daily instrument calibration readings) may be kept in separate field data files, and simply referenced in the field logbook.
- Chain-Of-Custody Records - Important aspect of QA/QC (refer to Session 6.5).
- Analytical Laboratory Data - Raw analytical laboratory data can require considerable file capacity, particularly where Contract Laboratory Program (CLP) protocols are required. Provisions must be made for this.
- Correspondence - Including meeting minutes, internal correspondence and memos, telecons, and external correspondence. External correspondence is usually best subdivided within a record system into such categories as subcontractor correspondence, agency correspondence, etc.
- Contractor and Subcontractor Agreements - Including notices to proceed, change orders, etc.
- Computer File - Including output runs, complete software descriptions and references, and verification runs if applicable.
- Reports - Including, where applicable: Initial Site Assessment; Preliminary Site Investigation; Detailed Site Investigation; Draft and Final Environmental Documents; Hazardous Waste Management Plan; Remedial Investigation; Feasibility Study; and Record of Decision (last three for NPL sites only).
- QA/QC Reports - Including laboratory systems or performance audits performed for this project.
- Remedial Design Documents - Plans and specifications.
- Remedial Action Documents - Contractor correspondence, resident engineer records, office reviews (e.g., shop drawings), etc.
- Miscellaneous Items - Including maps, photos, drawings, notes, and news articles.

C. PROCEDURES

Documentation procedures can vary to suit SHA record-keeping practices, provided that complete project records are maintained, identified, and controlled. Using the chosen formats and procedures, the documentation system should include, as a minimum, the following:

- A secure master project file, organized and indexed to provide direct and easy access to project records.
- A method for controlling access to project records, and maintaining records of all persons who have borrowed or received copies of specific project files.
- Formal provisions for making corrections to project files, when necessary.
- A provision for disposition of the file (e.g., long-term storage) upon completion of the project.

V. AGENCY COORDINATION

The liability aspects of CERCLA and RCRA require that SHAs maintain close coordination with regulatory agencies. It is imperative that SHAs consult with the primary state hazardous waste regulatory agencies to determine what records/reports need to be provided to them and under what circumstances.