

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 16 2005

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**MEMORANDUM**

SUBJECT: Comprehensive Environmental Response, Compensation, and Liability Act  
(CERCLA) Section 120 Interagency Agreements

FROM: David J. Kling, Director /s/  
Federal Facilities Enforcement Office (2261A)

TO: EPA Superfund Division Directors  
EPA Regional Counsels

I am writing to affirm our joint and ongoing oversight responsibility, with federal agencies under Section 120 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), to enter into an interagency agreement (IAG), often referred to as a "Federal Facilities Agreement" or "FFA," to ensure the proper management of federal Superfund cleanups.

By and large, EPA and other federal organizations can be very proud of our record of collaboration on such agreements, which has resulted in IAGs at some 140 federal Superfund sites nationwide. As you know, these agreements are based upon the attached models – one which was developed in 1988 with the Departments of Defense (DoD) and Energy (DOE), and the other revised in 1999 with particular DoD interests in mind. The IAGs provide the mechanism for clarifying host agency responsibilities, allocating cleanup oversight roles and responsibilities between EPA and the states, and ensuring that the public is informed about, and has an opportunity to appropriately participate in, the cleanup process to help insure safety and protectiveness. And while EPA, federal organizations and the states have generally enjoyed great success in site collaboration, the IAGs do offer an important means for resolving good faith disputes that sometimes arise among the parties.

EPA has recently identified 18 sites with incomplete IAGs – most managed by the various DoD services, apart from one Coast Guard and one DOE installation. A list of those sites is also attached for your reference. It is our understanding that the federal organizations responsible for most of these sites recognize the need to establish an IAG and several are on a path toward that end.

**I am asking that Regional staff coordinate with my office as they develop a schedule for contacting federal agency officials at these 18 sites in writing (1) to reaffirm our interest in completing IAGs, consistent with the models, and (2) to begin, restart or complete negotiations for an agreement.** The primary contact for this activity in OECA's Federal Facilities Enforcement Office (FFEO) is **Sally Dalzell**, a senior staff attorney who can be reached directly at 202/564-2583.

Once a federal property is listed on the Superfund National Priority List (NPL), CERCLA requires that the agency begin to define the nature and extent of its contamination through a remedial investigation within six months of that listing. Then, that federal agency must perform a feasibility study to determine the most appropriate remedy, applying the statutory criteria. Within six months of EPA's review of the investigation and study, the statute requires EPA and the federal agency to enter into an IAG. At a minimum, the IAG must include a review of cleanup alternatives, a schedule for cleanup accomplishment, and arrangements for operation and maintenance. The attached models cover areas such as jurisdiction, purpose, deadlines, statutory compliance, Resource Conservation and Recovery Act (RCRA)/CERCLA integration, consultation with EPA, dispute resolution, stipulated penalties, extensions, *force majeure*, and enforceability. These agreements typically cover the cleanup from investigation through cleanup completion.

We'll need your continued commitment as we complete unfinished IAGs and engage in any future ones to ensure effective and efficient cleanups at federal Superfund sites. If you have questions about the IAGs and our models, please contact Sally, Sandra Connors, FFEO's Deputy Director, or me at 202/564-2510,

Enclosures

cc: Thomas V. Skinner, EPA Office of Enforcement and Compliance Assurance  
Phyllis P. Harris, EPA Office of Enforcement and Compliance Assurance  
Barry Breen, EPA Office of Solid Waste and Emergency Response  
Michael B. Cook, EPA Office of Superfund Remediation and Technology Innovation  
James E. Woolford, EPA Federal Facility Restoration and Reuse Office  
EPA Federal Facility Leadership Council  
EPA Federal Facility Program Managers

## Federal Sites Without IAGs/FFAs

The following chart includes the list of sites for which there are currently no IAGs, city and state where located, and the responsible agency. (September 2004 NPL Listing)

Name of Site	City	State	EPA Region	Responsible Agency
1. Hanscom Field	Bedford	MA	I	Air Force
2. Natick Laboratories	Natick	MA	I	Army
3. Middlesex Sampling Plant	Middlesex	NJ	II	Army Corps of Engineers
4. Atlantic Fleet Weapons Training Area	Vieques/Culebra	Puerto Rico	II	Navy
5. McGuire Air Force Base	Wrightstown	NJ	II	Air Force
6. Langley Air Force Base	Langley	VA	III	Air Force
7. Fort Eustis	Newport News	VA	III	Army
8. Andrews Air Force Base	Camp Springs	MD	III	Air Force
9. Curtis Bay Coast Guard Yard	Anne Arundel County	MD	III	Coast Guard
10. Brandywine DRMO Salvage Yard	Brandywine	MD	III	DLA/Air Force
11. Fort Meade	Odenton	MD	III	Army
12. Willow Grove Naval Air Station	Willow Grove	PA	III	Navy

13. U.S. Naval Air Station Whiting Field	Milton	FL	IV	Navy
14. Tyndall Air Force Base	Panama City	FL	IV	Air Force
15. Redstone Arsenal	Huntsville	AL	IV	Army
16. Pantex Plant	Pantex Village	TX	VI	DOE
17. Iowa Army Ammunition Plant with FUSRAP (DERP IAG done)	Middletown	IA	VII	Army Corps of Engineers
18. Naval Computer & Telecommunications Area	Oahu	HI	IX	Navy

IAGs signed since Resolution of post-ROD dispute (October, 2003):

1. Little Creek IAG (Navy)/Region III/Oct. 2003
2. Jackson Park IAG (Navy)/Region X/Nov. 2004
3. Norfolk Navy Shipyard IAG (Navy)/Region III/Sept. 2004
4. St. Julians Annex IAG (Navy)/Region III/July 2004
5. Mechanicsburg IAG (Navy)/Region III/Nov. 2004
6. Cherry Point IAG (Marine)/Region IV/Jan. 2005
7. Parris Island IAG (Navy)/Region IV/Jan. 2005
8. Cheatham Annex IAG (Navy)/Region III/March 2005