



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
WASHINGTON, DC 20380-0001

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IN REPLY REFER TO

6280
LFL/U-20
6 JAN 1989

From: ~~Commandant~~ Commandant of the Marine Corps

Subj: - DEPARTMENT OF THE NAVY POLICY ON NATIONAL PRIORITIES LIST
SITE AGREEMENTS

Ref: (a) CMC ltr 6280/7 LFL/U-14 of 15 Jul 88

Encl: (1) Guidance on National Priorities List Interagency
Agreements

1. The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Section 120 requires interagency agreements with the Environmental Protection Agency (EPA) before actual cleanup can commence at National Priorities List (NPL) sites. The Deputy Assistant Secretary of Defense (Environment) has negotiated with Headquarters, EPA boiler plate language for these agreements. Therefore, the specific policy and guidance contained in the enclosure should be used as a basis for negotiating these agreements.

2. Over the past year, DoD has established policy in this area. These policies are not changed by the enclosed guidance. Pertinent DoD/Department of the Navy policy is summarized below:

a. Installations shall enter into Federal Facility Agreements at NPL sites as early as possible during the Remedial Investigation/Feasibility Study. These agreements are a high priority and contain many benefits if they are properly structured. They are intended to improve communications between all parties by allowing EPA and the state to review all work, and ultimately improve the process for selection of any remedial action.

b. Federal Facility Agreements for NPL sites should establish a reasonable working relationship between the states, EPA, and the installation. They should clearly lay out mutual obligations. The agreements should satisfy CERCLA Section 120 requirements and address other aspects of CERCLA. Although much emphasis has been given to our relationship with EPA, the states are critical participants in our program and we should incorporate their interests to the extent possible.

c. Installations will enter into agreements only if the provisions are realistically attainable and are structured to avoid excessive reporting, duplication of effort, and other administrative practices that reduce the efficiency of the overall remedial response.

d. Certain services requested by EPA and the states can be reimbursed by the Department of the Navy. Examples are, specified special studies and assistance in obtaining entry rights for remedial responses on private property. We will not reimburse EPA

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or the states for enforcement and related oversight costs, such as the review of documents. This issue is non-negotiable at the local level and should be referred to Headquarters Marine Corps (LFL) if problems arise.

e. We will continue efforts to define problems at our sites and move aggressively to determine what remedial actions are appropriate. In line with current DoD policy, if an imminent threat to human health is found during site investigations, the installation shall address and remedy that problem immediately. Negotiations on an agreement will in no way impede our responsibility to protect the public from harmful exposures or halt efforts to get remedial action decisions to address our sites.

f. We will consult fully with EPA and the states in the course of continuing our installation restoration efforts while negotiating the terms of the Federal Facility Agreements. We recognize the value of their reviews and recommendations throughout the cleanup process. Records should be maintained of our interactions with EPA and states whether or not a Federal Facility Agreement has been finalized.

3. Since the model agreement was recently negotiated and has not been fully established at field level, the following procedures will be followed:

a. COMNAVFACENGCOM will take the lead in negotiating agreements. This will allow a coordinated Department of the Navy position at all levels, i.e., the state and EPA regional and national offices. Proposed agreements shall be coordinated with the installation commander and Assistant General Counsel (Administrative and Environmental Law) Office of the Navy General Counsel, prior to presenting them to the EPA and the states. To ensure achievement of CERCLA goals, installation commanders shall provide technical, legal, and public affairs support, responsive to the peculiar needs of their NPL sites, at every stage of the negotiation and cleanup processes.

b. Once negotiations have been initiated, proposed changes which purport to satisfy the requirements of Section 120 of CERCLA will be discussed with the Assistant General Counsel (Administrative and Environmental Law).

c. Federal Facility Agreements under CERCLA Section 120 will be signed within the Office of the Assistant Secretary of the Navy (Shipbuilding and Logistics) (ASN(S&L)). This guidance supersedes the guidance in the reference which previously provided for interagency agreements to be signed by the installation commander. Final agreements shall be forwarded to Headquarters Marine Corps (LFL) for review and forwarding to ASN(S&L) for signature.

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d. Execution of the work required by the agreement will be done by the installation and COMNAVFACENGCOM as per the reference.

4. We are committed to the expeditious cleanup of our NPL sites in coordination and cooperation with the state, EPA, and the local community. These Federal Facility Agreements should allow us to move forward with necessary cleanups. However, we should not let the lack of a formal agreement slow our progress. Your continued efforts in this area will show that the Marine Corps is committed to the cleanup of our nation's environment. Our point of contact is Mr. Robert Warren, LFL on A/V 227-1890.



W. G. CARLSON, JR.
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