



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

APR 14 1994

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

MEMORANDUM

SUBJECT: Delegation of Authority Under the Community
Environmental Response Facilitation Act
(CERFA)--DECISION MEMORANDUM

FROM: Jonathan Z. Cannon *Jonathan Z. Cannon*
Assistant Administrator

TO: The Administrator

THRU: AX

ISSUE

The Office of Enforcement (OE) has proposed that two new authorities under the Community Environmental Response Facilitation Act (CERFA) be delegated to the Regional Administrators. The first is the authority under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h)(4)(B) to concur in the results of the identification of uncontaminated real property at a Federal facility on the National Priorities List. The second is the authority under CERCLA Section 120(h)(3) to evaluate approved remedial designs which have been constructed and installed to determine that such remedies are operating properly and successfully in order to establish that all necessary remedial actions have been taken.

BACKGROUND

CERFA was enacted on October 19, 1992, as an amendment to CERCLA. One of the primary goals of CERFA is to facilitate the timely reuse of real property at military bases that are closing and other Federal facilities where operations have been terminated. On July 2, 1993, President Clinton announced a Five-Point Plan to speed economic recovery at closing military bases. One of the Five Points in the plan is the Fast Track Cleanup Program. EPA is working closely with the Department of Defense (DOD) to implement the Fast Track Cleanup Program and has developed the Model Accelerated Cleanup (MAC) Program within EPA to this end.



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A key component of the President's Fast Track Cleanup Program is empowerment of the DOD, EPA, and State members of the cleanup teams assigned to closing bases. Each military service has delegated, or is in the process of delegating, decision-making authorities to the lowest level, i.e., the equivalent of the EPA Remedial Project Manager. The attached delegations delegate CERFA authorities to the lowest level, and follow the direction in your December 9, 1993 memorandum that states "The DOD is striving to put decision-making authority at the lowest practical level within its organization. Similarly, MAC team members will be vested with considerable decision-making authority."

REVIEW AND ANALYSIS

The proposed delegations were circulated for Green Border review. The Office of General Counsel, Region IV, and Region VIII concurred with comments. The most significant comments suggested that notification requirements under the limitation section of the delegations should be deleted. The Office of Enforcement explained that Headquarters needs information to track sites beyond those in the base closure arena, such as Department of Energy sites, and therefore requires notification by the Regions after actions are taken under these delegations.

All comments were resolved between the commenting offices and the Office of Enforcement, and the agreed-upon changes incorporated into the delegations.

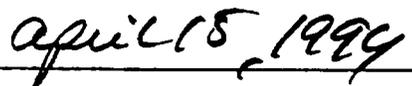
RECOMMENDATION

The attached delegations of authority are necessary for the Agency to carry out its evaluation and concurrence roles under CERFA in the clean-up of Federal facilities. I recommend that you approve them by signing below.

Approved: _____


Carol M. Browner

Date: _____



Attachments:

Green Border Approval Record

Proposed Delegations of Authority:

- 14-XX. Concurrence on Identification of Uncontaminated Federal Real Property
- 14-XX. Evaluation of Approved Remedial Design

DELEGATIONS MANUAL

TN 343
4/15/94

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-39. Concurrence on Identification of Uncontaminated Federal
Real Property

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Community Environmental Response Facilitation Act (CERFA): to concur under CERCLA Section 120(h)(4)(B) in the results of the identification of uncontaminated real property at a federal facility on the National Priorities List by the head of the Department, agency, or instrumentality of the United States with jurisdiction over the property, in accordance with CERCLA Section 120(h)(4)(A).
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. Regional Administrators of their delegateses must notify the Assistant Administrator for Solid Waste and Emergency Response or his/her designee after exercising this authority.
4. REDELEGATION AUTHORITY. This authority may be redelegated to the Remedial Project Manager level.
5. ADDITIONAL REFERENCES. Section 120 of CERCLA, and CERFA (P.L. 102-426)

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

14-40. Evaluation of Approved Remedial Design

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Community Environmental Response Facilitation Act (CERFA): to evaluate under CERCLA Section 120(h)(3) an approved remedial design which has been constructed and installed to determine that such remedy is operating properly and successfully in order to establish that all necessary remedial action has been taken for purposes of CERCLA Section 120(h)(3)(B)(i).
2. TO WHOM DELEGATED. Regional Administrators.
3. LIMITATIONS. Regional Administrators of their delegateses must notify the Assistant Administrator for Solid Waste and Emergency Response or his/her designee after exercising this authority.
4. REDELEGATION AUTHORITY. This authority may be redelegated to the Remedial Project Manager level.
5. ADDITIONAL REFERENCES. Section 120 of CERCLA, and CERFA (P.L. 102-426)