



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

**OFFICE OF  
 SOLID WASTE AND EMERGENCY  
 RESPONSE**

James C. Card  
 Rear Admiral, U.S. Coast Guard  
 Chief, Office of Marine Safety,  
 Security and Environmental Protection

Dear Admiral Card:

I am pleased to send you two copies of the U.S. Coast Guard (USCG) and U.S. Environmental Protection Agency (USEPA) Superfund Memorandum of Understanding (MOU), and request that you sign it. The MOU establishes funding coordination mechanisms for USCG access to Superfund, and it supersedes the MOU of January 4, 1982.

This MOU is the result of the joint USCG and USEPA MOU workgroup effort begun on June 9, 1993. The workgroup represented all concerned offices in both agencies. The resultant MOU will improve procedures for USCG access to the Superfund and will better serve both agencies' interests.

If you have any questions concerning the MOU please contact:

Jack Crawford  
 National Pollution Funds Center  
 USCG  
 703-235-4742

Mark Mjoness  
 Emergency Response Division  
 USEPA  
 703-603-8727

Please have your staff contact Mr. Mjoness after the MOU is signed and we will make arrangements for obtaining our copy.

I am pleased that the staff of our agencies were able to cooperate on the MOU.

Sincerely,

Elliott P. Laws  
 Assistant Administrator



U.S. Department  
of Transportation  
**United States  
Coast Guard**



Aug 17 1994

Elliott P. Laws  
Assistant Administrator  
Office of Solid Waste and  
Emergency Response  
U.S. Environmental Protection Agency

James C. Card  
Rear Admiral, U.S. Coast Guard  
Chief, Office of Marine Safety,  
Security and Environmental Protection

Harvey G. Pippen, Jr.  
Director  
Office of Grants and Debarment  
U.S. Environmental Protection Agency

Daniel F. Sheehan  
Director  
National Pollution Funds Center  
U.S. Coast Guard

Gentlemen:

We, the members of the joint U.S. Coast Guard (USCG) and U.S. Environmental Protection Agency (USEPA) Superfund Memorandum of Understanding (MOU) Workgroup, request that you sign the enclosed MOU between our agencies. The workgroup represents all concerned offices in both agencies. The MOU establishes funding coordination mechanisms for USCG access to Superfund, and it supersedes the MOU of January 4, 1982.

The MOU is the result of the workgroup effort begun on June 9, 1993. The resultant MOU will improve procedures for USCG access to the Superfund and will better serve both agencies' interests.

If you have any questions concerning the MOU please contact:

Mark Mjones  
Emergency Response Division  
USEPA  
703-603-8727

Jack Crawford  
National Pollution Funds Center  
USCG  
703-235-4742

We are pleased to have been part of the joint effort.

Sincerely,

**U.S. ENVIRONMENTAL PROTECTION  
AGENCY**

**U.S. COAST GUARD**

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Mark Mjoness  
Emergency Response Division

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Darrell Neily  
National Pollution Funds Center

---

Joseph Rauscher  
Emergency Response Division

---

Jack Crawford  
National Pollution Funds Center

---

Esther Williford  
Emergency Response Division

---

CDR Kenneth Keane  
Marine Environmental Protection Division

---

Susan Dax  
Financial Management Division

---

Margaret Dougherty  
National Pollution Funds Center

---

Kristen Skogebo  
Financial Management Division

---

John Andrzejewski  
National Pollution Funds Center

---

Nelson Price  
Financial Management Division

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CDR Robert Douville  
National Pollution Funds Center

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**MEMORANDUM OF UNDERSTANDING**  
**Between**  
**THE UNITED STATES COAST GUARD**  
**and**  
**THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**



**Procedures for United States Coast Guard Access to**  
**Superfund, to Support Coast Guard Implementation of CERCLA**

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1 **I. PURPOSE**

2  
3 This Memorandum of Understanding (MOU) establishes funding and coordination  
4 mechanisms between the United States Coast Guard (USCG) and the United States  
5 Environmental Protection Agency (USEPA). USEPA is the fiduciary for Superfund as  
6 established under the Comprehensive Environmental Response, Compensation and  
7 Liability Act of 1980 (CERCLA) , as amended. This MOU supersedes the MOU of  
8 January 4, 1982, between the USCG and USEPA, and its subsequent amendments.  
9

10 **II. AUTHORITY**

11  
12 Section 104 of CERCLA (42 USC 9604) authorizes the President to act “ ... whenever (A)  
13 any hazardous substance is released or there is a substantial threat of such a release into the  
14 environment, or (B) there is a release or substantial threat of release into the environment  
15 of any pollutant or contaminant which may present an imminent and substantial danger to  
16 the public health or welfare...” Executive Order 12580 delegates certain authority and  
17 responsibility for response to the Administrator of the USEPA and the Secretary of the  
18 Department of Transportation (DOT). On October 9, 1981, and May 27, 1988, the USCG  
19 redelegate authority back to the USEPA for certain response actions at hazardous waste  
20 sites that require response action (see Attachment A). The USCG and the USEPA enter  
21 into this agreement to carry out their responsibilities under CERCLA.  
22

23 **A. DEFINITIONS:**

24  
25 1. “Remove or removal” as defined by section 101(23) of CERCLA, means the  
26 cleanup or removal of released hazardous substances from the environment; such  
27 actions as may be necessary taken in the event of the threat of release of hazardous  
28 substances into the environment; such actions as may be necessary to monitor, assess,  
29 and evaluate the release or threat of release of hazardous substances; the disposal of  
30 removed material; or the taking of such other actions as may be necessary to prevent,  
31 minimize, or mitigate damage to the public health or welfare or to the environment,  
32 which may otherwise result from a release or threat of release. The term includes, in  
33 addition, without being limited to, security fencing or other measures to limit access,  
34 provision of alternative water supplies, temporary evacuation and housing of  
35 threatened individuals not otherwise provided for, action taken under section 104(b) of  
36 CERCLA, and any emergency assistance which may be provided under the Disaster  
37 Relief Act of 1974. The term also includes enforcement activities related thereto.  
38

39 2. “Incident” means the same as the term “site” for accounting and cost recovery  
40 purposes.  
41

42 **III. CERCLA COSTS**

43  
44 The Hazardous Substance Superfund (Superfund) is the source of funds for CERCLA  
45 removal costs incurred by the USCG. These costs are identified in three major categories:  
46

1 USCG removal actions, USCG support of USEPA removal actions, and USCG ongoing  
2 responsibilities. Such costs are reimbursed by the USEPA via interagency agreements  
3 (IAGs) between the USEPA and USCG. These IAGs are prepared in accordance with the  
4 procedures in Appendices (A) and (B), and the USEPA's Interagency Agreement Policy  
5 and Procedures Compendium of September 1988.

6  
7 A. REMOVAL COSTS:

8  
9 USCG Federal On-Scene Coordinators (OSCs) conduct CERCLA removals. All  
10 incident-specific removal costs incurred by the USCG qualify as allowable costs under  
11 Superfund. These costs are extramural and intramural in nature.

12  
13 1. Extramural Costs

14  
15 Extramural costs are those costs incurred external to the USCG: contractor/vendor,  
16 other government, etc. Examples of extramural costs include, but are not limited to,  
17 the following:

- 18  
19 a. Contractor and consulting costs including lease or rental of equipment supplied  
20 by  
21 the removal contractor and subcontractor(s);  
22  
23 b. Supplies, materials and equipment (including transportation costs) procured,  
24 leased or rented for the specific removal activity; and  
25  
26 c. Reimbursement of allowable costs incurred by other Federal agencies (e.g.,  
27 NOAA), or State or local governments.

28  
29 2. Intramural Costs

30  
31 Intramural costs include internal costs incurred by the USCG directly in support of  
32 removal activities.

33  
34 Intramural costs include:

- 35  
36 a. Travel and per diem for USCG military and civilian personnel;  
37  
38 b. USCG military and civilian personnel costs including civilian overtime costs;  
39  
40 c. Supplies used in support of a removal activity;  
41  
42 d. Charges for use of USCG owned equipment and resources;  
43  
44 e. Replacement or repair of USCG equipment destroyed or damaged as a result of  
45 a removal; and  
46  
47 f. Other miscellaneous expenses.

1  
2 **B. USCG COSTS IN SUPPORT OF USEPA REMOVAL ACTIONS:**  
3

4 USCG costs in support of USEPA removal actions are incident-specific costs incurred  
5 by USCG units in providing direct support to a USEPA OSC conducting a CERCLA  
6 removal action. Funding for these costs is through IAGs between each USEPA  
7 regional office and the USCG. In such cases, the USEPA OSC will be responsible for  
8 certifying USCG costs.  
9

10 **C. ONGOING RESPONSIBILITIES COSTS:**  
11

12 Pursuant to responsibilities under CERCLA, the USCG conducts removals and  
13 monitors removals by responsible parties. Ongoing responsibilities costs are generally  
14 non-incident-specific costs for support of the following ongoing activities required to  
15 create and maintain the capability to conduct and monitor removals:  
16

- 17 • Emergency Removal Training and Equipment
- 18 • Enforcement
- 19 • National Response Center Support
- 20 • Medical Monitoring
- 21 • Information Systems
- 22 • Program Management
- 23 • Response Readiness - National Response Team (NRT) and Regional Response  
24 Team (RRT) Support  
25

26 Funding for these costs is transferred annually to the USCG in an “Ongoing  
27 Responsibilities” IAG. The costs may be extramural or intramural. The annual IAG is  
28 prepared in accordance with the procedures in Appendix B.  
29

30 **IV. ACCOUNTING FOR ONGOING RESPONSIBILITIES COSTS**  
31

32 Superfund accounting and recordkeeping requirements apply to costs funded under the  
33 annual ongoing responsibilities IAG. All expenditures under the IAG are recoverable from  
34 responsible parties through the application of the USEPA indirect cost model and must be  
35 documented. Personnel levels are addressed in the approved personnel model entitled  
36 “Alternative Documentation for USCG Salaries Reimbursed by Superfund.” The model  
37 justifies the number of reimbursable Full Time Equivalents (FTEs) under the ongoing  
38 responsibilities IAG. It analyzes workload and calculates FTE, but does not provide a  
39 funding amount for personnel cost reimbursement. If the number of Superfund reimbursed  
40 FTEs is greater than the number justified by the model, the USEPA will be reimbursed the  
41 difference using average standard personnel costs.  
42

43 This model is used during the annual DOT Superfund audit process to show how the USCG  
44 Superfund activities translate into USCG billets reimbursed by Superfund. The model was  
45 jointly developed and approved by the USEPA and USCG, and it can be revised upon the  
46 concurrence of both agencies.

1  
2 **V. INCIDENT CASE FILE**  
3

4 The lead agency OSC (USCG or USEPA) shall maintain a case file for each incident. The  
5 case file includes the administrative record as defined in the National Contingency Plan  
6 (NCP) and contains information for determining liability and pursuing cost recovery. For  
7 each USCG CERCLA removal or support action for a USEPA CERCLA removal, the case  
8 file will contain documentation of all resources used and financial transactions associated  
9 with the incident, per Appendix A, and the following:

10  
11 **A. FINDING OF IMMINENT AND SUBSTANTIAL ENDANGERMENT:**  
12

13 For incidents with total estimated project costs less than \$250,000, the USCG will  
14 document the finding of imminent and substantial endangerment (endangerment  
15 determination) in the case file. This documentation will provide sufficient information  
16 describing the need for the CERCLA removal action including the threat or potential  
17 threat posed by the situation, hazardous substances present (if known) and the selected  
18 removal action. Attachment B is provided as a sample format for documenting this  
19 finding. The USCG OSC may elect to use either this endangerment determination  
20 format or to document the endangerment determination through another format (e.g.,  
21 within a pollution report - POLREP). The endangerment determination should be  
22 made and documented before removal actions take place, circumstances permitting, or  
23 as early as possible after emergency removal actions begin.  
24

25 **B. ACTION MEMORANDUM:**  
26

27 For incidents with total estimated project costs equal to or greater than \$250,000, the  
28 USCG will submit an approved action memorandum, which includes an endangerment  
29 determination, to the Director, Emergency Response Division (ERD), USEPA prior to  
30 obligating funds in excess of \$250,000 (see “Superfund Removal Procedures, Action  
31 Memorandum Guidance,” USEPA Publication Number: EPA/540/P-90/004, OSWER  
32 Directive 9360.3-01, December 1990).  
33

34 For incidents with total estimated project costs equal to or greater than \$250,000 and  
35 requiring an amendment to increase the funding authorized in the IAG, the USCG will  
36 submit a draft action memorandum to the Director, ERD, USEPA for review and  
37 timely comment, and coordination with the IAG amendment. When a USCG OSC  
38 needs to act immediately, ERD, USEPA may extend an oral commitment of funding.  
39 Oral commitments will be confirmed in writing.  
40

41 In all cases, the action memorandum must describe the threat and the rationale for  
42 choosing a particular remedy - including the technical basis for the decision.  
43

44 **VI. QUALITY ASSURANCE**  
45

46 The USCG will comply with its internal Quality Assurance (QA)/chain of custody policies  
47 and procedures, published in USCG Commandant Instructions, in responding to releases

1 of hazardous substances, pollutants and contaminants. Commandant Instructions  
2 M16465.29 and M16465.30 specifically address responses under CERCLA. The Marine  
3 Safety Manual, Commandant Instruction M16000 series, includes policy for pollution  
4 removal activities. These instructions address the conduct of operations, personnel  
5 protection associated with operations, decision making, and identification and disposal of  
6 recovered pollutants, and documentation.

7  
8 The USCG utilizes commercial laboratories to identify substances in pollution incidents.  
9 To assure that the information from these laboratories is reliable, the USCG will utilize all  
10 available information, including USEPA performance data, to evaluate candidate  
11 laboratories.

12  
13 For non-time-critical removals, the USCG will assure that the quality of physical, chemical,  
14 and biological data developed in the assessment and operational phases of a removal is  
15 addressed per the NCP and will be addressed as needed in removal contracts.

16  
17 USEPA agrees to provide clause(s), or other language suitable for use in contractual  
18 statements of work, as requested, to assist the USCG in the preparation of these contracts.

19  
20  
21 **VII. MODIFICATION AND TERMINATION**

22  
23 Either the USCG or the USEPA may propose changes to this MOU. Both agencies must  
24 approve a change before it becomes effective. Either party may terminate the MOU by  
25 giving a thirty (30) day written notice. Adding or changing appendices or attachments to  
26 this MOU does not constitute modification of the overall MOU.

27 Such additions or changes may be made by agreement of officials responsible for the  
28 specific subject area in the USEPA and USCG. The officials making any such change will  
29 immediately bring the change to the attention of the signers of this MOU, or their  
30 successors, and then publish the change so as to inform all users of the MOU.

31  
32 **VIII. PERIOD OF AGREEMENT**

33  
34 This MOU shall continue in effect until terminated, or modified or amended. This MOU  
35 shall become effective on the date of the last signature below.

1 **IX. SIGNATURES**

2  
3  
4  
5  
6 \_\_\_\_\_  
7 Elliott P. Laws  
8 Assistant Administrator  
9 Office of Solid Waste and Emergency  
10 Response  
11 U.S. Environmental Protection Agency

12 DATE: \_\_\_\_\_

6 \_\_\_\_\_  
7 James C. Card  
8 Rear Admiral, U.S. Coast Guard  
9 Chief, Office of Marine Safety, Security  
10 and Environmental Protection

12 DATE: \_\_\_\_\_

18  
19 \_\_\_\_\_  
20 Harvey G. Pippen Jr.  
21 Director  
22 Office of Grants and Debarment  
23 U.S. Environmental Protection Agency

24 DATE: \_\_\_\_\_

18  
19 \_\_\_\_\_  
20 Daniel F. Sheehan  
21 Director  
22 National Pollution Funds Center

24 DATE: \_\_\_\_\_

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**APPENDIX A**

**PROCEDURES FOR MULTI-INCIDENT REMOVAL**  
**INTERAGENCY AGREEMENTS (IAGS)**

The following procedures apply to IAGs funding CERCLA removals conducted by USCG OSCs:

1. ORIGINATION PHASE

Incidents can occur any day of the year, and the USCG must have funding to respond on the first day of the fiscal year. The following procedures are structured with the objective of providing funding without fiscal year transition interruption. If experience indicates a need for change, the procedures should be modified to meet the objective. In the absence of a current fiscal year budget, the USCG may incur incident-specific removal costs, pursuant to CERCLA, Executive Order 12580, and the NCP. In such cases, the USEPA will certify those costs as necessary and appropriate to the IAG project and in the government's best interests.

- A. The ERD, USEPA HQ, in cooperation with the National Pollution Funds Center (NPFC), USCG HQ, will develop the next fiscal year's cost estimate, budget, scope of work and special condition information for the IAG by August 31 of each fiscal year.
- B. The ERD will prepare the IAG funding package [three (3) original IAGS, a decision Memorandum and a commitment notice] and forward it to the Assistant Administrator, Office of Solid Waste and Emergency Response (AA, OSWER) or designee for review and signature.
- C. When approved, the IAG funding package will be forwarded to the Grants Administration Division (GAD), USEPA for legal and administrative review and USEPA Action Official signature.
- D. Following USEPA Action Official signature, GAD transmits two complete IAGs to the NPFC, USCG. GAD keeps the third as back-up.
- E. The NPFC, USCG official shall review the IAG and, if acceptable, sign the two originals, retain one signed original and return the other to GAD.
- F. GAD shall retain the signed original and transmit one copy to the Cincinnati Financial Management Center (CFMC), USEPA for obligation and one copy to the ERD, USEPA.

1           2. EXECUTION PHASE

2  
3           A. NOTIFICATION:

4           Within 24 hours following initiation of a CERCLA removal, the NPFC, USCG will  
5           provide to the ERD, USEPA information (endangerment determination, POLREP  
6           or action memorandum) on the incident and a cost estimate. In return, ERD will  
7           provide to NPFC a USEPA Site/Spill Identification (SSID) number to link the  
8           USCG and USEPA records, tracking and financial systems.

9  
10          B. INCIDENT CASE FILE:

11          The lead agency OSC (USCG or USEPA) will maintain each incident's case file.  
12          For each USCG CERCIA removal or support action for an USEPA CERCLA  
13          removal, the case file contains documentation of all resources used and financial  
14          transactions associated with the incident.

15  
16          C. POLLUTION REPORTS:

17          The USCG shall provide copies of pollution reports (POLREPS) to the Director,  
18          ERD, USEPA to provide CERCLA removal and fund obligation data. The initial  
19          POLREP shall be provided within 72 hours of initiating CERCLA removal.  
20          Progress POLREPs should be provided on a routine basis.

21  
22          No later than 2 weeks after completion of each incident removal, the USCG shall  
23          forward a final POLREP to the ERD for inclusion in the USEPA's incident case  
24          file.

25  
26          D. EQUIPMENT:

- 27          1. Purchase of equipment to support a removal will be recorded in the IAG and  
28          the cost documentation records in the case file.
- 29  
30          2. Replacement of items in the National Strike Force (NSF) inventory will be  
31          subject to the NSF CERCLA inventory controls.
- 32  
33          3. Replacement of USCG equipment or assets is an agency reimbursement, not  
34          an equipment purchase for purposes of CERCLA recordkeeping.
- 35  
36          4. All equipment purchase records and the equipment will be available for  
37          audit.

38  
39          E. BILLING:

40          The USCG will submit a bill to:

41  
42                  USEPA Cincinnati Financial Management Center  
43                  ATTN: Financial Management Officer  
44                  26 West Martin Luther King Drive  
45                  Cincinnati, OH 45268  
46



1 Each bill shall cite: 1) the number of the IAG providing the funding and 2) an  
2 incident-specific breakdown of charges. Within 30 days of the billing, NPFC will  
3 provide the ERD Project Officer and CFMC additional accounting system reports  
4 detailing the costs on the bill by individual incidents using USEPA assigned SSID  
5 numbers. CFMC will forward the bill to the USEPA Project Officer for review and  
6 approval. Inadequately supported bills will not be paid, or in the case of OPACs  
7 will be charged back.  
8

9 **F. USEPA REVIEW:**

10 The USEPA Project Officer will review the billing documents and the other  
11 supporting accounting system reports for reasonableness and will approve the  
12 payment or, if questions arise, contact NPFC for clarification.  
13

14 **G. PRIOR NOTIFICATION OF COSTS:**

15 The USCG will notify the USEPA Project officer before it incurs costs in excess of  
16 80% of total budget amount for any IAG or in anticipation of undertaking a high  
17 cost removal action. In such cases, upon the approval of the USEPA Project  
18 Officer, the USCG and the USEPA will develop an amendment to the IAG for  
19 increased funding.  
20

21 **H. REPORTING REQUIREMENTS:**

- 22
- 23 1. The USCG will submit quarterly progress reports to the USEPA Project  
24 Officer showing obligations in each budget category, balance remaining,  
25 summary of activities and property inventory. Reports will be cumulative  
26 and the fourth quarterly report of the year will be the final report for the year.  
27
  - 28 2. The USCG will maintain a list of funded incidents showing open/closed  
29 status (i.e., whether further obligations will occur) and will send it to the  
30 USEPA Project Officer with the quarterly progress reports.  
31
  - 32 3. A detailed cost report for each incident will be provided to the USEPA  
33 Project Officer with each quarterly report. Each incident-specific cost report  
34 will detail costs by the elements which constitute the budget categories  
35 appearing on Item 22, EPA IAG Form (1610-1) and all items of equipment  
36 purchased outside standard inventory costing over \$1,000.  
37

38 **I. ADMIRALTY LAW CASES:**

39 When a USCG OSC leads a CERCLA response involving certain time-sensitive  
40 litigation such as an injunction, a vessel arrest or an action by a vessel owner to  
41 limit liability, the USCG may be asked to provide the best available information  
42 directly to the Department of Justice (DOJ), and it may be appropriate to do so.  
43 DOJ often must respond within strict time limits set by the court, which may be  
44 before the cost documentation records normally are ready to be forwarded to the  
45 USEPA. The USCG agrees to cooperate in such matters, and also will immediately  
46 notify the USEPA.  
47

1           3. CLOSE-OUT PHASE

2  
3           A. NOTIFICATION OF COMPLETION:

4           When the USCG has completed removal work on all incidents funded under the  
5           IAG for a fiscal year, NPFC will submit, within 60 days, the fourth quarter progress  
6           report. That report will serve as a final report to the USEPA Project Officer and  
7           include:

- 8  
9           1. A list of incidents funded, showing the USEPA SSID number and total cost for  
10           each incident.  
11  
12           2. A summary of expenditures by budget category showing the balance of funds  
13           remaining.  
14  
15           3. A property inventory for non-expendable items costing over \$1,000 each.

16  
17           B. OSC REPORTS:

18           When an OSC report is prepared pursuant to the NCP, 40 CFR 300.165  
19           (OSC reports), the USCG will submit a copy of the OSC report to the USEPA  
20           Project Officer for inclusion in the incident case file.

21  
22           C. CLOSE-OUT:

23           Upon receipt of the final report the USEPA Project Officer will initiate close-out  
24           procedures.

25  
26           D. PROPERTY DISPOSITION:

27           The USCG will consult the USEPA prior to disposition of property acquired under  
28           the IAG to assure that the disposition method properly reflects the interests of  
29           Superfund.

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**APPENDIX B**

**PROCEDURES FOR “ONGOING RESPONSIBILITIES  
INTERAGENCY AGREEMENTS (IAGs)**

The following procedures are for IAGs to reimburse costs incurred by the USCG for support, training and maintenance of its removal capabilities:

1. ORIGINATION PHASE

- A. The ERD, USEPA HQ, in cooperation with the NPFC, USCG HQ, develops the next fiscal year cost estimate, budget, scope of work and special condition information for the IAG by August 31 of each fiscal year.
- B. The ERD shall prepare the IAG funding package [three (3) original IAGs, a decision memorandum and a commitment notice] and forward it to the AA, OSWER or designee for review and signature.
- C. When approved, the IAG funding package will be forwarded to the GAD, USEPA for legal and administrative review and USEPA Action Official signature.
- D. Following USEPA Action Official signature, GAD transmits two IAG forms to the NPFC, USCG. GAD keeps the third copy as back-up.
- E. The NPFC, USCG official shall review and, if acceptable, sign the two original IAGs, retain one signed original and return the other to GAD, USEPA.
- F. GAD shall retain the signed original and transmit one copy to the CFMC, USEPA for obligation and one copy to the ERD.

2. EXECUTION PHASE

A. BILLING:

To receive reimbursement for costs incurred under the IAG, the USCG shall submit a bill to:

USEPA Cincinnati Financial Management Center  
ATTN: Financial Management Officer  
26 West Martin Luther King Drive  
Cincinnati, OH 45268

CFMC will forward the bill to the USEPA Project Officer for review and approval. Inadequately supported bills will not be paid, or in the case of OPACs will be charged back.

Each bill shall contain the IAG number.

1 The USEPA Project Officer will review the bill for reasonableness and will  
2 approve the payment or, if questions arise, contact NPFC for clarification.

3  
4 **B. REPORTING REQUIREMENTS:**

5  
6 The USCG will provide the USEPA Project Officer with the ongoing  
7 responsibilities project workplan by December 31 of each year. The workplan will  
8 include:

- 9  
10 • distribution of reimbursed FTEs by organizational location (specific field  
11 office or division in Headquarters);  
12  
13 • identification of organizational elements with CERCLA responsibilities and  
14 eligibility for funding under this agreement. Categorize each organization's  
15 function under one or more of the following:  
16  
17 • Emergency Removal Training and Equipment  
18 • Enforcement  
19 • National Response Center Support  
20 • Medical Monitoring  
21 • Information Systems  
22 • Program Management  
23 • Response Readiness - NRT and RRT Support  
24  
25 1. The USCG will submit quarterly progress reports to the USEPA Project  
26 Officer showing obligations in each budget category, balance remaining,  
27 summary of activities and property inventory. Reports will be cumulative  
28 and the fourth quarterly report of the year will be the final report for the  
29 year.  
30  
31 2. The USEPA Project Officer will file the workplan and the quarterly progress  
32 reports in the ERD IAG file.

33  
34 **3. CLOSE-OUT PHASE:**

35  
36 A. When the USCG has completed work on all activities funded under that IAG,  
37 NPFC will submit, within 60 days, the fourth quarter progress report. That will  
38 serve as a final report to the USEPA Project Officer and include:

- 39  
40 1. Summary of activities;  
41  
42 2. Property inventory for non-expendable items costing over \$1000 each;  
43  
44 3. Summary of expenditures by budget category and balance of funds  
45 remaining.  
46

- 1           B. Upon receipt of the final report, the USEPA Project Officer will initiate close-out
- 2            procedures.
- 3
- 4           C. The USCG will consult the USEPA prior to disposition of property acquired under
- 5            this agreement to assure that the disposition method properly reflects the interests
- 6            of Superfund.

1 **APPENDIX C**

2  
3  
4 **RECORDKEEPING**

5  
6 Under CERCLA, the Federal government is authorized to recover removal costs from  
7 responsible parties, including investigatory, cleanup, enforcement and administrative costs.  
8 The USEPA intends to recover all such costs. The USCG has established the NPFC which,  
9 among other functions, administers USCG use of CERCLA funds.

10  
11 The USCG will follow the Superfund financial management and recordkeeping guidelines  
12 contained in the USEPA’s “Superfund Financial Management and Recordkeeping Guidance  
13 for Federal Agencies” (January 1989), unless specifically addressed in this MOU or an IAG.  
14 Consistent with this, the USCG will create a case file for each incident funded under a  
15 multi-incident IAG. The case file will contain a complete set of cost records. The USCG  
16 also will create files for cost records for transactions under the ongoing responsibilities  
17 IAGs.

18  
19 1. **COST RECOVERY DOCUMENTATION**

20  
21 The USCG records for Superfund activities will meet the following criteria needed for  
22 cost recovery:

23  
24 A. **CONSISTENT FILING PROTOCOL:**

25 The USCG will maintain consistent records showing uses of Superfund. The  
26 USCG will use its own filing protocols.

27  
28 B. **TIMELY RESPONSE TO COST RECOVERY DOCUMENTATION REQUESTS:**

29 The USCG will provide these records to the USEPA upon request within 30 days,  
30 unless otherwise agreed.

31  
32 C. **RECORDS RETAINED:**

33 The USCG will retain the following cost documentation:

34  
35 1. **Direct Costs**

36 Standard Personnel Costs (Including Fringe Benefits)

37 Travel

38 Extramural (e.g., contractor)

39 Materials and Supplies

40 Equipment

41 Construction

42  
43 2. **Indirect Costs**

44  
45 3. **Interagency Agreement Documents**

1 D. RECONCILIATION:

2 Periodically the USCG will reconcile cost documentation with data produced by its  
3 accounting system.

4  
5 E. PERSONNEL COST REIMBURSEMENT MODEL:

6 The USCG does not employ a universal timecard system that reflects CERCLA  
7 activities. To provide detailed and accurate records of personnel costs reimbursed  
8 under the ongoing responsibilities IAG, the USCG will periodically generate data  
9 using the “Alternative Documentation for USCG Salaries Reimbursed by  
10 Superfund” model. If the model justifies fewer than the number of existing  
11 CERCLA billets, the USCG will reimburse Superfund for the unsupported number  
12 of billets, using the average personnel cost of all the reimbursed billets. The USCG  
13 will report the models’ computation results in the fourth quarterly progress report.  
14 If the model documents more FTEs than the number of existing CERCLA  
15 reimbursed billets, reimbursement will not exceed the total amount agreed in the  
16 current annual ongoing responsibilities IAG. Increased funding to support  
17 additional FTEs in subsequent fiscal years may occur in the annual budget process.  
18

19 F. STORAGE MEDIA & RECORD SAFETY:

20 USCG records will be located in the offices where they are used or other areas as  
21 secure as possible from fire, water and other damage. Similar provision will be  
22 made for safe long-term storage of inactive documentation.  
23

24 G. IMAGED DOCUMENTS:

25 Use of imaged documents for cost documentation, billing, and all audit resolution is  
26 acceptable under the following conditions:

- 27 1. The imaging system is used in the normal course of business.
- 28 2. The USCG can certify the accuracy of the system.
- 29
- 30

31  
32 H. RECORD RETENTION:

33 The USCG or its contractors will retain all cost documentation on-site or at a  
34 Federal Records Center for a minimum of ten years after submission of a final IAG  
35 payment request. If legal action regarding an incident is initiated within the ten  
36 year period, records will be retained until the conclusion of legal action. In  
37 addition, the USCG will obtain written permission from the USEPA IAG Action  
38 Official prior to disposing of any Superfund cost records. Lack of response from  
39 the USEPA IAG Action Official within 30 days will constitute approval.  
40

41  
42 I. AUDITS:

43 CERCLA requires the Inspector General of each Agency using Superfund to conduct an  
44 annual audit of all transactions by that Agency involving the Superfund. USCG cost  
45 documentation will be available for audit or verification upon request of the DOT  
46 Inspector General. If, based on an audit by the DOT Inspector General, the USCG

1 determines that any direct or indirect costs charged to Superfund are unallowable, the  
2 USCG will immediately notify the USEPA and promptly reimburse Superfund.  
3

4 2. IAG RECORDS  
5

6 The USCG financial and program management offices will maintain records for the  
7 multi-incident and ongoing responsibilities IAGs. Those records will include, when  
8 applicable:  
9

10 A. FINANCIAL RECORDS:

- 11 • IAG forms executed by both agencies.
- 12
- 13 • Invoices and payment records.
- 14
- 15 • Closeout documentation, if different from above.
- 16

17 B. PROGRAM RECORDS:

- 18 • Record of discussions and contacts and the resulting decisions.
- 19
- 20 • IAG forms executed by both agencies.
- 21
- 22 • Endangerment Determinations
- 23
- 24 • Action Memoranda
- 25
- 26 • POLREPs
- 27
- 28 • Invoices and payment records.
- 29
- 30 • Closeout documentation, if different from above.
- 31
- 32



1  
2  
3  
4  
5  
6

**ATTACHMENT A**

**INSTRUMENTS OF REDELEGATION**

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**THE SECRETARY OF TRANSPORTATION**

**WASHINGTON, D.C. 20590**

OCT 2 1981

The Honorable Anne M. Gorsuch  
Administrator  
U. S. Environmental Protection Agency  
401 "M" Street, S.W.  
Washington, D. C. 20460

Dear Mrs. Gorsuch:

Our respective staffs have worked out the attached redelegation instrument for certain functions contained in the "Comprehensive Environmental Response, Compensation and Liability Act of 1980, P.L. 96-510" and Executive Order 12316, "Responses to Environmental Damage". The redelegating instrument is drafted consistent with Section 8 (f) of the Executive Order which authorizes redelegations of functions, with the consent of the head of the agency to which the functions are redelegated.

I am confident that the redelegation agreement properly assigns authority and responsibility consistent with the structure and delegations which you envision for the revised "National Oil and Hazardous Substances Pollution Contingency Plan". I request that you countersign and return the enclosed redelegation instrument, thereby indicating your consent to the redelegation.

Sincerely,

1 Enclosure

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## INSTRUMENT OF REDELEGATION

In accordance with Section 8 (f) of Executive Order 12316 of August 14, 1981, the Secretary of the Department in which the Coast Guard is operating hereby redelegates to the Administrator, Environmental Protection Agency, subject to the Administrator's consent, all functions specified in Sections 2 (d), 2 (f), 2 (g), 3 (a), and 4 (b) of that Executive Order with the exception of the following:

- a. Functions related to responses to releases or threats of releases from vessels;
- b. Functions related to immediate removal action concerning releases or threats of releases at facilities other than active or inactive "hazardous waste management facilities" (as defined in 40 CFR 122.3); and
- c. Functions related to immediate removal action concerning releases or threats of releases at active or inactive "hazardous waste management facilities" when the Coast Guard On-Scene Coordinator determines that such action must be taken pending the arrival on scene of an Environmental Protection Agency On-Scene Coordinator. Unless otherwise agreed upon by EPA and Coast Guard, this authority will not be exercised unless the EPA OSC is scheduled to arrive on scene within 48 hours of notification of the release or threat.

For purposes of this instrument: the term "immediate removal action" includes any removal action which, in the view of the Coast Guard On-Scene Coordinator, must be taken immediately to prevent or mitigate immediate and significant harm to human life or health, to the environment, or to real or personal off-site property. Situations in which such action may be taken include, but are not limited to, fire, explosions, and other sudden releases; human, animal, or food chain exposure to acutely toxic substances; and the contamination of a drinking water supply.

All functions described in this instrument, whether redelegated or retained, include the authority to contract for, obligate monies for, and otherwise arrange for and coordinate the responses included within such functions.

\_\_\_\_\_  
Andrew L. Lewis, Jr.  
Secretary of Transportation

\_\_\_\_\_  
Date

I hereby consent to the redelegation as set forth in this instrument

\_\_\_\_\_  
Anne M. Gorsuch  
Administrator

\_\_\_\_\_  
Date

## PRESIDENTIAL DOCUMENTS

### EXECUTIVE ORDER 12316 OF AUGUST 14, 1981

#### RESPONSES TO ENVIRONMENTAL DAMAGE

By the authority vested in me as President of the United States of America by Section 115 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (94 Stat. 2796; 42 U.S.C. 9615), it is hereby ordered as follows:

##### Section 1. *National Contingency Plan.*

- (a) The National Contingency Plan, hereinafter referred to as the NCP and which was originally published pursuant to Section 311 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321) shall be amended to contain the implementing procedures for the coordination of response actions to releases of hazardous substances into the environment.
- (b) The NCP shall contain a concept of a national response team composed of representatives of appropriate Executive agencies for the coordination of response actions. The national response team shall, in addition to representatives of other appropriate agencies, include representatives of the following: Department of State, Department of Defense, Department of Justice, Department of the Interior, Department of Agriculture, Department of Commerce, Department of Labor, Department of Health and Human Services, Department of Transportation, Department of Energy, Environmental Protection Agency, Federal Emergency Management Agency, and United States Coast Guard.
- (c) The responsibility for the amendment of the NCP and all of the other functions vested in the President by Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, hereinafter referred to as the Act (42 U.S.C. 9605), is delegated to the Administrator of the Environmental Protection Agency.
- (d) In accord with Section 111(h)(1) of the Act and Section 311(f)(5) of the Federal Water Pollution Control Act, as amended (33 U.S.C., 1321(f)(5)), the following shall be among those designated in the NCP as Federal trustees for natural resources:
  - (1) Secretary of Defense.
  - (2) Secretary of the Interior.
  - (3) Secretary of Agriculture.
  - (4) Secretary of Commerce.

- (e) Amendments to the NCP shall be coordinated with members of the national response team prior to publication for notice and comment. Amendments shall also be coordinated with the Federal Emergency Management Agency and the Nuclear Regulatory Commission in order to avoid inconsistent or duplicative requirements in the emergency planning responsibilities of those agencies.
- (f) All amendments to the NCP, whether in proposed or final form, shall be subject to review and approval by the Director of the Office of Management and Budget.

Section.2. *Response authorities.*

- (a) The functions vested in the President by the first sentence of Section 104(b) of the Act relating to “illness, disease, or complaints thereof” are delegated to the Secretary of Health and Human Services who shall, in accord with Section 104(i) of the Act, perform those functions through the Public Health Service.
- (b) (1) The functions vested in the President by Section 101(24) of the Act, to the extent they require a determination by the President that “permanent relocation of residents and businesses and community facilities“ is included within the terms “remedy” or “remedial action” as defined in Section 101(24) of the Act, are delegated to the Director of the Federal Emergency Management Agency.
- (2) The functions vested in the President by Section 104(a) of the Act, to the extent they require permanent relocation of residents, businesses, and community facilities or temporary evacuation and housing of threatened individuals not otherwise provided for, are delegated to the Director of the Federal Emergency Management Agency.
- (c) The functions vested in the President by Section 104 (a) and (b) of the Act are delegated to the Secretary of Defense with respect to releases from Department of Defense facilities or vessels, including vessels owned or bare-boat chartered and operated.
- (d) Subject to subsections (a), (b), and (c) of this Section, the functions vested in the President by Sections 101(24) and 104 (a) and (b) of the Act are delegated to the Secretary of the Department in which the Coast Guard is operating, hereinafter referred to as the Coast Guard, with respect to any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.
- (e) Subject to subsections (a), (b), (c), and (d) of this Section, the functions vested in the President by Sections 10(24) and 104 (a) and (b) of the Act are delegated to the Administrator of the Environmental Protection Agency, hereinafter referred to as the Administrator.
- (f) The functions vested in the President by Section 104 (c), (d), (f), (g), and (h) of the Act are delegated to the Coast Guard, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, and the Administrator in order to carry out the functions delegated to them by subsections (a), (b), (d), and (e) of this Section. The exercise of authority under Section 104(h)

of the Act shall be subject to the approval of the Administrator of the Office of Federal Procurement Policy.

- (g) The functions vested in the President by Section 104(e)(2)(C) of the Act are delegated to the Administrator, all other functions vested in the President by Section 104(e) of the Act are delegated to the Secretary of Defense, the Secretary of Health and Human Services, the Coast Guard, the Director of the Federal Emergency Management Agency, and the Administrator of the Environmental Protection Agency, in order to carry out the functions delegated to them by this Section.

### Section 3. *Abatement Action.*

- (a) The functions vested in the President by Section 206(a) of the Act are delegated to the Coast Guard with respect to any release or threatened release involving the coastal zone, Great Lakes water, ports, and harbors.
- (b) Subject to subsection (a) of this Section, the functions vested in the President by Section 106(a) of the Act are delegated to the Administrator.

### Section 4. *Liability.*

- (a) The function vested in the President by Section 107(c)(i)(C) of the Act is delegated to the Secretary of Transportation.
- (b) The Functions vested in the President by Section 107(c)(i) of the Act are delegated to the Coast Guard with respect in any release or threatened release involving the coastal zone, Great Lakes waters, ports, and harbors.
- (c) Subject to subsection (b) of this Section, the functions vested in the President by Section 107(c)(3) of the Act are delegated to the Administrator.
- (d) The functions vested in the President by Section 107(f) of the Act are delegated to each of the Federal trustees for natural resources set forth in Section 1(d) of this Order to resources under their trusteeship.

### Section 5. *Financial Responsibility.*

- (a) The functions vested in the President by Section 107(k)(6)(B) of the Act are delegated to the Secretary of the Treasury. The Administrator will provide the Secretary with such technical information and assistance as the Administrator may have available.
- (b) The functions vested in the President by Section 108(a) of the Act are delegated to the Federal Maritime Commission. Notwithstanding Section 1(d) of Executive Order No. 12291, the regulations issued pursuant to this authority shall be issued in accordance with that Order. The Commission shall be responsible, in accord with Section 109 of the Act, for the enforcement of civil penalties for violations of the regulations issued under Section 108(a) of the Act.



- (c) The functions vested in the President by Section 108(b) of the Act are delegated to the Secretary of Transportation with respect of all transportation related facilities, including any pipeline, motor vehicle, rolling stock, or aircraft.
- (d) Subject to subsection (c) of this Section, the functions vested in the President by Section 108(b) of the Act are delegated to the Administrator.

*Section 6. Employee Protection and Notice to Injured.*

- (a) The functions vested in the President by Section 110(e) of the Act are delegated to the Secretary of Labor.
- (b) The functions vested in the President by Section 111(g) of the Act are delegated to the Secretary of Defense with respect to releases from Department of Defense facilities or vessels, including vessels owned or bare-boat chartered and operated.
- (c) Subject to subsection (b) of this Section, the functions vested in the President by Section 111(g) of the Act are delegated to the Administrator.

*Section 7. Management of the Hazardous Substance Response Trust Fund and Claims.*

- (a) The functions vested in the President by Section 111(a) of the Act are delegated to the Administrator, subject to the provisions of this Section and applicable provisions of this Order.
- (b) The Administrator shall transfer, to transfer appropriation accounts for other agencies, from the Hazardous Substance Response Trust Fund, out of sums appropriated, such amounts as the Administrator may determine necessary to carry out the purposes of the Act. These allocations shall be consistent with the President's Budget, within the amounts approved by the Congress, unless a revised allocation is approved by the Director of the Office of Management and Budget.
- (c) The Administrator shall chair a budget task force composed of representatives of agencies having responsibilities under this Order or the Act. The Administrator shall also, as part of the budget request for the Environmental Protection Agency, submit a budget for the Hazardous Substance Response Trust Fund which is based on recommended allocations developed by the budget task force. The Administrator may prescribe reporting and other forms, procedures, and guidelines to be used by the agencies of the Task Force in preparing the budget request.
- (d) The Administrator and each agency head in whom funds are allocated pursuant to this Section, with respect to funds allocated to them, are authorized in accordance with Section 111(f) of the Act to designate Federal officials who may obligate such funds.
- (e) The functions vested in the President by Section 112 of the Act are delegated to the Administrator for all claims presented pursuant to Section III.

Section 8. *General Provisions.*

- (a) Notwithstanding any other provision of this Order, any representation pursuant to or under this Order in any judicial or quasi-judicial proceedings shall be by or through the Attorney General. The conduct and control of all litigation arising under the Act shall be the responsibility of the Attorney General.
- (b) Notwithstanding any other provision of this Order, the President's authority under the Act to require the Attorney General to commence litigation is retained by the President.
- (c) The functions vested in the President by Section 301 of the Act are delegated as following:
  - (1) With respect to subsection (a), to the Administrator in consultation with the Secretary of the Treasury.
  - (2) With respect to subsection (b), to the Secretary of the Treasury.
  - (3) With respect to subsection (c), to the Secretary of the Interior.
  - (4) With respect to subsection (f), to the Administrator.
- (d) The Attorney General shall manage and coordinate the study provided for in Section 301(e) of the Act.
- (e) The performance of any function under this Order shall be done in consultation with interested agencies represented on the national response team, as well as with any other interested agency.
- (f) Certain functions vested in the President by the Act which have been delegated or assigned by this Order may be redelegated to the head of any agency with his consent; those functions which may be redelegated are those set forth in Sections 2, 3, 4(b), 4(c), and 6(c) of this Order.
- (g) Executive Order No. 12286 of January 19, 1981, is revoked.

THE WHITE HOUSE  
*August 14, 1981.*

[FR Doc. 81-24411  
Filed 8-16-81, 1:23 pm]  
Billing code 3125-01-M

## INSTRUMENT OF REDELEGATION

1. Except as provided in paragraph 2 below, in accordance with Section 11(g) of Executive Order 12580 of January 23, 1987, the Secretary of the Department in which the Coast Guard is operating hereby delegates to the Administrator, Environmental Protection Agency (EPA), subject to the Administrator's consent.
  - a. all functions specified in Sections 2(f) 4(c), and 5(b) of that Executive Order;  
and
  - b. the functions specified in Sections 2(i), 2(j)(2), 2(k), and 6(c) of that Executive Order to the extent that those functions relate to the functions specified in Section 2(f) of that Executive Order.
  
2. The functions redelegated under this Instrument of Redelegation do not include;
  - a. functions related to responses to releases or threats of releases from vessels;
  - b. functions related to emergency action concerning releases or threats of releases at facilities other than active or inactive "hazardous waste management facilities" (as defined in 40 CFR 270.2); and
  - c. functions related to emergency action concerning releases or threats of releases at active or inactive "hazardous waste management facilities" when the Coast Guard On-Scene Coordinator (OSC) determines that such action must be taken pending the arrival on scene of an EPA OSC. Unless otherwise agreed upon by the EPA and Coast Guard, this authority will not be exercised unless the EPA OSC is scheduled to arrive on scene within 48 hours of notification of the release or threat of release.
  
3. For purposes of this Instrument, the term "emergency action", includes any removal action which, in the view of the Coast Guard OSC, must be taken immediately to prevent or mitigate immediate and significant danger to the public health, welfare or the environment. Situations in which such actions may be taken include, but are not limited to, fire, explosions, and other sudden releases; human, animal, or food chain exposure to acutely toxic substance, and the contamination of a drinking water supply.



**ATTACHMENT B**

**ENDANGERMENT DETERMINATION**

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**FINDING OF IMMINENT AND SUBSTANTIAL ENDANGERMENT  
AT THE  
SUPERFUND INCIDENT**

Because of the factors outlined below, I have determined that a threat exists to the public health or welfare or the environment at the \_\_\_\_\_ Superfund incident. An imminent and substantial endangerment to the public health or welfare or the environment exists because of an actual or threatened release of a hazardous substance at or from the incident.

1. SUPERFUND INCIDENT INFORMATION

Incident Name: \_\_\_\_\_

Incident Number: \_\_\_\_\_

Incident Location: \_\_\_\_\_  
(County, and State)

USCG Contractor: \_\_\_\_\_

Potentially Responsible Party: \_\_\_\_\_

Access: \_\_\_\_\_ Restricted \_\_\_\_\_ Unrestricted

NPL Status: \_\_\_\_\_

Removal Start Date: \_\_\_\_\_

2. THREAT TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT

A. Chronological Background \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(e.g., when incident initially identified and by whom, number of drums, etc.)

B. Hazardous Substances Present \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(if known, otherwise indicate “suspected hazardous substance”)

C. Nature of Actual or Threatened Release of Hazardous Substance at or from the Incident \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(e.g., drum of unknown materials washed ashore, leaking drum, unknown material released into a stream resulting in a fish kill, level of security provided to minimize threat, etc.)

Check applicable factors (from Section 300.415 of the National Contingency Plan NCP) which were considered in determining the appropriateness of a removal action:

\_\_\_\_\_ 300.415(b) (2) (i) Actual or potential exposure sure to nearby human populations, animals, or the food chain from hazardous substances or pollutants or contaminants.

\_\_\_\_\_ 300.415(b) (2) (ii) Actual or potential contamination of drinking water supplies or sensitive ecosystems.

\_\_\_\_\_ 300.415(b) (2) (iii) Hazardous substances or pollutants or contaminants in drums, barrels, tanks, or other bulk storage containers, that pose a threat of release.

\_\_\_\_\_ 300.415(b) (2) (iv) High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate.

\_\_\_\_\_ 300.415(b) (2) (v) Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released.

\_\_\_\_\_ 300.415(b) (2) (vi) Threat of fire or explosion.

\_\_\_\_\_ 300.415(b) (2) (vii) The availability of other appropriate Federal or State response mechanisms to respond to the release.

\_\_\_\_\_ Other situations or factors that may pose threats to public health or welfare or the environment.



3. SELECTED REMOVAL ACTION (briefly describe removal; e.g., disposal of drums, neutralization of corrosive, conduct of analysis to determine hazardous substances present, security provided to eliminate threat, etc.)

This finding of imminent and substantial endangerment has been entered in the incident's administrative record.

\_\_\_\_\_  
(Signature)

( \_\_\_\_\_ typed name \_\_\_\_\_ )

( \_\_\_\_\_ title \_\_\_\_\_ )

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