

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

APR 24 2000

SUBJECT: Cross Boundary Support - Backup MOA

FROM: Abe Ferdas, Director
Hazardous Site Cleanup Division

TO: Dick Green, Director, Waste Management Division - Region IV
Bill Muno, Director, Superfund Division - Region V

Purpose

The purpose of this memo is to seek your signature on the attached Memorandum of Agreement (MOA) which formally establishes that our three Regions will provide inter-regional support to each other, upon request, during emergency incidents and other removal actions.

Background

Our three respective Regions have an extensive history in supporting each other during emergency response and removal actions. That support has been provided based upon informal requests among the Removal Managers. Under the Agency's Core Emergency Response (Core ER) initiative, Element #3, the Regions were expected to better define backup arrangements with other Regions; to ensure sufficient resources are available to manage emergencies and other large scale incidents. Consequently, in implementing Core ER, our Removal Managers agreed to team together as backup regions, and to work together to develop a Memorandum of Agreement which formalizes our willingness to provide mutual aid to each other.

The Core ER initiative envisioned backup support pay for large emergency/removal actions where the magnitude of the incident(s) was overwhelm the resources of the lead region. Some examples would include responses to large natural disasters, such as hurricanes and floods, as well as extremely resource intensive removals, such as the methyl parathion cleanups. This MOA outlines a process for providing backup support during these large events. However, because of the extensive common boundaries between our regions, a novel feature in our MOA is that we have also included a protocol for performing cross-boundary responses to classic emergencies. In these situations, the supporting region would, upon request, perform the initial response, serving as the First Federal Official, until the region in which the incident occurred can actually get the predesignated FOSC to the scene. While some classic emergency support has occurred in the past, we can expect that with this MOA, and our past and planned efforts to out-station On Scene Coordinators within our regions, that more cross-boundary support will be requested and provided in the future. This approach should, in turn, enhance EPA's performance, and reputation among the states and local governments, for providing timely response to incidents warranting federal assistance.

Implementation

Upon finalization of the MOA, the Removal Managers will immediately implement the process outlined in the MOA for requested and providing inter-regional FOSC support. In addition, it is expected that cross-boundary support to each other would be further improved by ensuring, that the FOSCs responding can use whichever contract resources are most readily available to provide a timely and thorough response. To implement that concept may require some modifications to existing START and ERRS contracts and/or the procedures used to enable zone crossovers of regional contracts. Our signatures on this MOA will authorize our Removal Managers to begin working among themselves and with the regional contracting offices to develop appropriate contract modifications and procedures.

Action Required

All three Removal Managers for our Regions have concurred with this final version of the MOA. I, in turn, have signed the MOA and would recommend that after a review each of you also sign the MOA. I have enclosed three originals, and would ask that you sign all three. After all the signatures are in place, each Region will have one original for its files and to copy for distribution.

To facilitate a timely review and signature process, I am sending the MOA first to Region IV via express mail. I would ask that Region IV after signature then express mail the material to Region V. Region V after signature can then keep one original, and express mail one original each to Regions III and IV.

Conclusion

I appreciate the patience and support your Regions have provided to Region III during the drafting, and editing of this MOA. Further discussions on the MOA, and its introduction to the States and other Federal agencies, will be occurring at the special Joint Regional Response Teams III, IV & V meeting which is scheduled to be held in Cincinnati, May 16-18, 2000.

If you have any questions or concerns regarding the MOA, please feel free to call me at (215) 814-3143. Thank you.

Attachment - 3 Original Copies of MOA

MEMORANDUM OF AGREEMENT
INTER-REGIONAL EMERGENCY RESPONSE AND REMOVAL SUPPORT
REGIONS III, IV, & V
U.S. ENVIRONMENTAL PROTECTION AGENCY

The purpose of this memorandum is to establish a mutual aid agreement for cross-regional emergency and removal response activities among, EPA Regions III, IV, and V.

I. Authorities

The mutual aid provided under this agreement will enhance the Agency's response to releases of oil, hazardous substances, pollutants, and contaminants; and, which is done pursuant to the authorities vested in EPA under the Clean Water Act, as amended by the Oil Pollution Act of 1990 (OPA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as amended by the Superfund Amendments and Reauthorization Act (SARA) and further defined in the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) 40 CFR 300 et. seq. This agreement also encompasses responses which the Regions may undertake pursuant to the Stafford Disaster Relief Act and amendments, and as further defined in the National Response Plan Framework.

II. Pre-Designation and Location of FOSCs

Pursuant to 40 CFR 300-120(a), each EPA Regional Administrator has predesignated Federal On-Scene Coordinators (FOSCs) for the Inland Zone. The names of the predesignated FOSCs are documented in each respective Regional Contingency Plan (RCP).

Region III predesignated FOSCs are presently duty-stationed in the following locations:

- Philadelphia, Pennsylvania
- Bethlehem, Pennsylvania
- Wheeling, West Virginia.

Region IV predesignated FOSCs are presently duty-stationed in Atlanta, Georgia.

Region V predesignated FOSCs are presently duty-stationed in the following, locations:

- Chicago, Illinois
- Carterville, Illinois
- Grosse Ile, Michigan
- Westlake, Ohio
- Cincinnati, Ohio

The distribution of FOSCs among these duty-stations facilitates timely response activities on the part of EPA throughout the three Regions. Each FOSC is able to perform response activities outside of the proximity of his/her immediate duty-station area, and by virtue of this agreement, across EPA regional boundaries should circumstances warrant such involvement. Examples of such circumstances are described in Section IV of this agreement.

III. On-Scene Coordinator Response Activities

Under CERCLA/SARA and OPA, pre-designated FOSC's perform emergency and removal response activities where: (a) there is a release or substantial threat of release of hazardous substances; (b) there is a release or substantial threat of release into the environment of any pollutant, or contaminant which may present an imminent and substantial danger to public health or welfare; and (c) there is a discharge or substantial threat of a discharge of oil to the waters or to the adjoining, shorelines of waters of the United States. These responses can be determined necessary in response to a variety of situations including but not

limited to accidental spills, transportation accidents, facility explosions, dumping, criminal actions, terrorism, hurricanes, earthquakes, floods, or other forms of natural disasters.

Pre-designated FOSC's can also perform response activities under the direction of other federal agencies, including:

- FEMA Emergency Support Function 410 (ESF-10) Activations
- Stafford Act Federal Disaster Declarations
- FBI Counter Terrorism Responses per PDD 39

IV. Mutual Aid Cross-Regional Response Activities

It is hereby agreed by the signatories that the three EPA regional offices represented in this agreement will upon request endeavor to assist each other in cross-regional response activities in the following circumstances.

Provision of First Federal Official (FFO) and/or Federal On-Scene Coordinator (FOSC): A cross-boundary response can be performed where the closest FOSC is from another region, or where the magnitude of the response is such that additional assistance is warranted. In accordance with 40 CFR 300.135 (b), the FOSC providing a cross-boundary response can serve as the First Federal official (FFO) on scene. As FFO, the FOSC providing the cross-boundary response, shall initiate and carry out all FOSC responsibilities, in consultation with the lead region's pre-designated FOSC. The FFO would carry out actions until a pre-designated FOSC from the lead region arrives on scene, or until the incident no longer warrants a federal response action.

Provision of FOSC Representative for Limited Duration Site Coverage: Very large, unexpected events can result in a level of response work in a region beyond the FOSC resource base. This could be due to a regional disaster such as flood or hurricane or simply due to the magnitude of the site or incident at a time when the region's resources are limited or otherwise committed to other regional priorities. In these situations cross-regional assistance can be provided by any of the signatory regions; in which case the FOSC from the supporting region would serve as FOSC representative for the lead region. The FOSC representative would then implement work directed by the lead FOSC and would not be expected to take independent action.

Coordinated Multi-Regional Responses: The region in which an incident originates will respond as the lead region, provide a pre-designated FOSC, and initiate response operations including the notification of all appropriate government agencies, RRT's, and affected parties within the anticipated area of impact. Furthermore, if the discharge or release moves from one region to another, the authority for leading the response will also shift between the regions. Conversely, should the incident affect an area that encompasses multiple-regions, the involved region should all commit FOSC resources to a unified incident command structure which would conduct response activities pursuant to NCP Section 300.135. Pursuant to NCP Section 300.140 there shall be only one FOSC in charge of response operations. The RRT Co-Chairs from the affected EPA regions will consult and reach agreement on which region should provide the lead FOSC. In selecting the lead region the RRT Co-Chairs shall give prime consideration to the region vulnerable to the greatest threat. Should the consultation among regions result in a change in the lead region, it is agreed that all parties will work together to ensure the transition has impact on response operations.

V. Existing Memoranda of Agreement (MOAs)

This MOA is based upon MOAs already in place, which confirm the geographic areas and responsibilities for pre-designated FOSCs for pollutant responses. This MOA does not replace the existing MOA's, but rather outlines a process, which when applied to the situations noted in this memorandum, further enhances EPA's collective ability to adequately respond to oil and hazardous materials incidents in a timely and thorough fashion.

VI. Budget and Contracts

The signatory regions recognize the benefits of the FOSC in an emergency, tasking the contractor(s) most readily available to mobilize to the incident scene. This may require the use of another region's contractor resources. EPA START and ERRS contracts currently provide the authority to support other region through zone crossover. This MOA endorses the use of contract resources, wherever available, to respond at the direction of a warranted FOSC to any emergency situation. Specific protocols to expedite the zone crossover will be developed as an output of this MOA.

The lead region is responsible for funding the response action and furnishing, as appropriate, the regional and site-specific accounting and appropriation data to the FOSC from the supporting region who is serving as either FFO or FOSC representative. When the FOSC providing the cross-boundary response is requested by the lead region to assume the role of designated FOSC, the lead region shall establish, as necessary, appropriate authority and/or procedures to enable the FOSC providing the cross-boundary response to utilize the lead region's contract resources for the duration of the incident.

VII. Process for Activating Cross-Regional Support under this Agreement

Requests for cross-boundary support in response to an emergency incident should be made to the phone duty officer. In requesting the support the lead region should specify the type of support required, such as a FFO or merely the provision of technical assistance. In implementing this MOA, each Region shall develop and apply procedures, as appropriate, that authorize and provide for the immediate dispatch of an FOSC by the duty officer in support of the lead region. The phone duty officers from each respective Region are expected to notify and brief their management concerning actions taken pursuant to the request.

Requests for site coverage support and/or support during an ESF # 10 activation should generally be made during business hours, initiated by the lead Region and by contact between the respective Removal Managers or their designees. In the event that the Removal Managers are not available and/or the support becomes apparent as an immediate need during non-business hours, the respective duty officers will discuss the request and make the decision. Any procedures needed to implement this provision of the MOA will be included with those required above.

VIII. Effective Date

This agreement will be effective upon signature by all the parties, and shall remain in effect until termination by any of the parties. Any party may terminate this agreement upon 90 days written notice to the other parties. The provisions may be reviewed, amended, or supplemented upon agreement of all the parties.

IX. Distribution

Final signed copies of this agreement shall be distributed as follows:

- Removal Managers, Regions III, IV, and V
- FOSCs, Regions III, IV, and V
- USCG Districts
- USCG - National Pollution Fund Center
- Regional Contracting Officer(s), Regions III, IV, and V
- Regional Project Officer(s), Regions III, IV, and V
- EPA Headquarters, OSWER/OERR Regional Centers III, IV, and V
- Regional Contingency Plan (RCP), Regions III, IV, and V

X. Signatures

Abraham Ferdas, Director Date
Hazardous Site Cleanup Division
EPA Region HI

Richard D. Green, Director Date
Waste Management Division
EPA Region IV

William E. Muno, Director Date
Superfund Division
EPA Region V

Federal Region III Regional Response Team's Regional Contingency Plan Draft Revised: August 20, 2001.