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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET
ATLANTA, GEORGIA 30365

DEC 20 1988

REF: 4WD-SISB/VW

Mr. J. R. Bailey
Head
Environmental Quality Branch
Atlantic Division
Naval Facilities Engineering Command
Norfolk, VA 23511-6287

Re: Site Investigation Information Request
Marine Corps Air Station New River, NC

Dear Mr. Bailey:

The Environmental Protection Agency (EPA) has reviewed the comments provided in your letter dated October 19, 1988, supporting the decision of the Department of the Navy not to provide EPA with the additional Hazard Ranking System (HRS) information as per our written request of September 19, 1988. The following comments discuss the statutory requirements and other regulations regarding the Agency's information request.

The National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, is a legally binding regulation that effectuates the response powers and responsibilities created by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 USC 9601 et. seq., as amended by the Superfund Amendments and Reauthorization Act (SARA), P.L. 99-499, October 17, 1986, and the authorities established by Section 311 of the Clean Water Act, as amended. The NCP outlines the process for facility Site Evaluations (SEs) which include Preliminary Assessments (PAs) and Site Investigations (SIs) if necessary.

In applying the NCP to the Agency's information request, a reference must be made to Executive Order (E.O.) 12580 which establishes the delegation of CERCLA Presidential authority. E.O. 12580 Section 2(d) delegates the response authorities in CERCLA Sections 104(a), (b), and (c)(4) to the Secretary of Defense for facilities within the Department of Defense (DOD), thereby establishing DOD as the "lead agency", as defined in Section 300.6 of the NCP, for certain authorities and associated responsibilities.

As outlined in Section 300.64 of the NCP, among one of the responsibilities of the "lead agency" is to initiate a SE and perform a PA when there is a release or threat of a release which may potentially harm human health or the environment. If the PA indicates that remedial actions may be appropriate, the "lead agency" shall continue with the SE and conduct a SI in accordance with Section 300.66 of the NCP.

According to NCP Section 300.66, the purpose of the SE is to "further categorize the nature of any releases and potential threats to public health and welfare and the environment and to collect data as required to determine whether a site should be included on the National Priorities List (NPL)".

CERCLA Section 120(a) (1) states that departments, agencies, and instrumentalities of the United States "shall be subject to, and comply with, this chapter in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity...". In addition, CERCLA Section 120(a) (2) states that "all guidelines, rules, regulations, and criteria which are... applicable to evaluations of such facilities under the National Contingency Plan... in the same manner and to the extent as such guidelines, rules, regulations, and other criteria are applicable to other facilities. No department, agency, or instrumentality of the United States may adopt or utilize any such guidelines, rules, regulations, or criteria which are inconsistent with the guidelines, rules, regulations, and criteria established by the Administrator under this chapter". The SI information requested by the Agency on September 19, 1988, is clearly consistent with the guidelines, rules, regulations, and criteria for SEs which, as stated in CERCLA Section 120(a), must be complied with by DOD.

CERCLA Section 120(d) states that "...the Administrator shall, where appropriate - (1) evaluate such facilities in accordance with Section 105 under the NCP for determining priorities among releases".

Therefore, while it is the responsibility of the Administrator of EPA to establish priorities among releases according to the HRS described in Appendix A of the NCP, the responsibility of DOD as the "lead agency" to conduct SEs to provide the Administrator of EPA with the appropriate HRS information is clearly a statutory requirement that is defined by regulation. The preceding statement is supported by the fact that the Secretary of Defense, as delegated by E.O. 12580 Section 4(e) and defined by CERCLA Section 104(e) (5) (A), has the sole authority to issue Compliance Orders pertaining to SE information requests for DOD facilities.

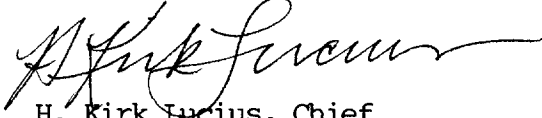
It is the determination of the Administrator of EPA that while the PAs submitted for Marine Corps Air Station (MCAS) New River are sufficient to meet statutory requirements, the SE of this facility remains incomplete. For this reason, EPA requests that the Department of the Navy conduct a SI for MCAS New River and provide the following information as part of the SI:

1. Both Narrative and RCRA summaries (see enclosure 1 of September 1988 request letter);
2. Documented waste quantity information for each potential CERCLA site;

3. Recent USGS topographic maps indicating three and four mile radii around each potential CERCLA site boundary;
4. Nearby public water supply system plans indicating distribution lines;
5. Map indicating location of existing drinking supply wells on MCAS New River with accompanying well logs and user documentation; and
6. All existing sampling and analysis data for each potential CERCLA site.

Comments concerning this request should be submitted to the Investigation Support Section no later than January 13, 1988, and should outline in detail your plans and schedule to provide the above necessary site evaluation information to EPA. If you have any further questions concerning this request, please contact Victor L. Weeks of the Federal Facilities staff at (404) 347-5059.

Sincerely yours, .



H. Kirk Lucius, Chief
Site Investigation and Support Branch
Waste Management Division

cc: Mr. Jerome Rhodes, NC Department of Human Resources
Ms. Lee Crosby, NC Department of Human Resources
Colonel T. J. Dalzell, MCB Camp LeJeune