



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

MAY - 8 2008

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Interim Guidance on Defining Federal Facility Activities for Compliance and Enforcement Tracking

FROM: David J. Kling, Director  
Federal Facilities Enforcement Office

A handwritten signature in black ink, appearing to read "D. Kling", written over the name "David J. Kling" in the "FROM" field.

TO: Addressees

The purpose of this memorandum is to transmit an Interim Guidance on Defining Federal Facility Activities for Compliance and Enforcement Tracking. This guidance incorporates many comments made by the Regions and EPA's Office of Environmental Information (OEI) on previous drafts of the document. We thank all participants for their comments.

This guidance will:

- Ensure the accuracy and consistency in reporting federal facility information and to improve the Agency's ability to measure and report the results of all EPA activities which impact the environment at federal facilities.
- Provide specific criteria for categorizing EPA activities as federal or non-federal and any special issues that should be considered when applying this guidance to EPA compliance and enforcement activities.
- Apply to all EPA compliance and enforcement activities involving federal facilities beginning in Fiscal Year 2008.

Once the new ICIS reporting tool (Business Objects XI) is deployed later this year, FFEO will create shared reports with this information for all Regions to use.

If you have any questions or comments about this interim guidance, please contact Richard Satterfield at 202-564-2456.

Attachment: Interim Guidance

Addressees: Regional Federal Facility Program Managers  
Regional Federal Facility Senior Managers  
Regional Enforcement Division Directors, Region 1-10  
Regional Enforcement Coordinators, Regions 1-10  
Regional Compliance Assistance Coordinators, Regions 1-10  
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# Interim Guidance on Defining Federal Facility Activities for Compliance and Enforcement Tracking

Interim Guidance  
5/8/08

## Summary of This Guidance and Purpose Statement

EPA is issuing this guidance to ensure accuracy and consistency in reporting federal facility information and to improve our ability to measure and report the results of all EPA activities which impact the environment at federal facilities. These results would include EPA inspections, enforcement actions and compliance assistance activities and actions of non-federal entities that occur on or near federal facilities such as contractors, individuals, lessees, tenants, concessionaires and others. By identifying such actions and recording them in EPA databases, EPA's federal facilities program can more accurately measure and report progress.

This guidance applies to federal agency data entry and data retrieval from EPA databases. It also serves as guidance to EPA staff who conduct reporting and analysis during EPA mid-year and end-of-year reporting cycles. EPA's Federal Facilities Enforcement Office (FFEO) shares responsibility with EPA Regions for analyzing data that reports on the performance of EPA's Federal Facility Program. Here is a summary of the main points:

- This guidance is not intended to replace or change the Federal Facility Identification Standard developed by the Environmental Data Standards Counsel (EDSC). It should, however, clarify the types of federal activities that must be identified in EPA databases.
- EPA regional and headquarters staff performing data entry, data retrieval or analysis activities will characterize activities affecting federal facilities in a manner consistent with this guidance.
- All EPA activities including inspections, formal enforcement actions, and compliance assistance that occur within the perimeter of certain types of facilities must be identified as *federal* in EPA databases. These types of facilities are outlined on page 3 of this guidance.
- EPA activities that occur at certain types of facilities will *not* be identified as *federal* in EPA databases. These types of facilities are also included in this guidance.
- All EPA actions and activities that involve Army or Air National Guard and Reserve installations facilities or that occur within the perimeter of these facilities must be identified as *federal*. The exception of certain state entities is described within this guidance.
- EPA activities that occur at privately-owned/privately operated facilities will be identified as *federal* if they meet certain conditions as described on page 5 of this document.
- All EPA activities that are considered to be *federal*, per this guidance, will be checked as *federal* in the EPA Integrated Compliance Information System (ICIS).

- Specific guidance for properly identifying federal facilities in ICIS is provided below under the last section of this document.

For this guidance, the term “EPA activities” refers primarily to inspections, enforcement actions, and compliance assistance. The Regions and HQ offices played a significant role in formulating this guidance and their comments are incorporated in this document.

### **Index**

This guidance includes the following:

- Introduction
- Criteria for Categorizing EPA Activities as Federal or Non-Federal
- Special Issues
  - National Guard and Reserve facilities
  - Neighboring Facilities
  - Compliance Assistance Activities
- Current Definitions and Types of Federal Facilities Monitored by FFEO
- Properly Identifying Federal Facilities in ICIS

### **Introduction**

EPA has established procedures for reporting information into databases on its various activities (e.g., enforcement actions and inspections) conducted at federal facilities. These procedures are outlined periodically in EPA’s *National Program Managers (NPM) Guidance* and the *Enforcement and Compliance Reporting Plan* provided each year by EPA’s Office of Enforcement and Compliance Assurance. These documents provide the process and deadlines for reporting, reviewing and certifying information for fiscal year inspection, enforcement and compliance activities. Through the process outlined in these documents, this information is identified during data input as either having occurred at or directed against federal facilities.

There have been occasions where EPA activities (inspections, enforcement actions and compliance assistance) directed at or toward non-federal facilities have erroneously been identified in EPA databases as actions against federal facilities. In addition there are occasions where some activities are not correctly identified as federal facility activities even if they directly impact human health and the environment at a federal facility. For example, an enforcement action taken against a contractor who manufactures aircraft components at a government-owned military base should be identified as a federal facility enforcement activity. Tribal lands by themselves do not fall within EPA’s definition of a federal facility. However, EPA activities involving federal facilities *on* tribal lands should be identified as *federal*.

This guidance provides a way to accurately and consistently track the impact of regulated activities of federal facilities, and to capture these in EPA’s databases for the Agency’s annual reporting process.

## **Criteria for Categorizing EPA Activities as *Federal* or *Non-Federal***

**1) Federal - All EPA activities including inspections, formal enforcement actions, and compliance assistance that occur within the perimeter of the following types of facilities must be identified as *federal* in EPA databases:**

- Government-owned/government-operated facilities (GOGOs);
- Government-owned/contractor-operated facilities (GOCOs);
- Government-owned/privately operated facilities (GOPOs);
- Inholdings, defined as privately-owned/privately operated facilities that are totally or partially encircled by the GOGO facility;
- Federal agency tenants who conduct operations on property leased from another federal agency;
- Contractors or other private parties conducting construction, maintenance, renovation, abatement, or demolition on federally-owned property;
- Privately-owned transporters of products or wastes whose operations or incidents (e.g., spills) related to those operations occur within the fence line of the federal facility;
- Privately-owned/government operated (POGO) facilities where the government leases buildings or space for its operations;
- Federal facilities located on American Indian or Tribal lands (e.g., schools or public health centers operated by the Bureau of Indian Affairs or the Indian Health Service);
- Formerly used defense sites (FUDs);
- Non-federal leasees operating within a federal facility who are granted use of government land by a rental or real estate agreement or title transfer with a reversionary clause (e.g., municipal landfills, oil and gas, mining);
- Permittees operating within a federal facility who are granted a permit for short-term use of government land;
- Claimants having properly located, recorded, and maintained mining claims under the 1872 Mining Law on federal lands for which a patent has not been issued;
- Federal facilities that have been granted permits for use of the land of another federal agency for up to 20 years administratively if the intended use does not involve destruction of the land (i.e., military uses, dams).

Note that the list above includes EPA actions or activities involving other types of facilities or potential polluters of federal property that are not described in Table I-1 (see below under the section - *Current Definitions and Types of Federal Facilities Monitored by FFEO*). These include: 1) federal agency tenants located on federal property, 2) contractors conducting construction, maintenance renovation, abatement, or demolition on federal property, and 3) privately-owned transporters hauling waste or product (e.g., fuel) on federal properties. The EPA activities associated with these facilities and activities will also be identified as *federal*.

**2) Non-Federal - EPA actions or activities that occur at the following facility types will *not* be identified as *federal*.**

- Privately-owned/privately-operated facilities that are not encircled by or share a property border with a federal facility as described above.
- Contractor owned/contractor operated facilities (COCOs) that provide goods and/or services to a federal agency under contract.
- COCO facilities that may be furnished government equipment to manufacture a product or provide service to a federal agency under contract (COCO(E)s).
- Parties (grantees) that have received a grant for permanent authorization to use a given right-of-way. Grants usually involve a single payment for the land or transfer of land use rights.
- A mining claimant (patent holders) who has met the statutory requirements of the 1872 Mining Law and has been issued a permit.
- Privately-owned transporters hauling waste or product originating from a federal facility that *does not* impact the environment at the originating federal facility (Note this would not exclude any resulting CERCLA actions from being classified as *federal*).
- American Indian or Tribal lands where no federal agencies have operations/activities occurring on them.

This guidance does not address every federal facility activity scenario or situation nor does it supplant the need for EPA staff to exercise prudent judgment. Therefore, where there is any question regarding the activity, the Federal Facilities Enforcement Office should be consulted.

**Special Issues**

National Guard and Reserve Facilities

All EPA actions and activities that involve National Guard facilities or that occur within the perimeter of these facilities will be identified as *federal* with the exception of certain state entities discussed below.

National Guard facilities fall into one of four types:

- **Type 1:** Federally-owned/federally-operated facilities where the Department of Defense (DoD) owns and operates all regulated activity;
- **Type 2:** Federally-owned/state-operated facilities where DoD owns the property and infrastructure but regulated activities are conducted by state personnel;
- **Type 3:** State-owned/federally-operated facilities where the state owns the property and infrastructure but regulated activities are conducted by DoD military personnel;
- **Type 4:** State-owned/state-operated facilities where the state owns the property and regulated activities are also conducted by state personnel.

To be consistent with the process stated in the previous section, EPA activities at Type 1, 2 and 3 facilities will be identified as *federal*.

Type 4 Army National Guard facilities do not have DoD oversight, a DoD budget authorization for environmental corrections, and are not operated by DoD military personnel. Sometimes these facilities can be considered to be non-federal. However, three types of circumstances involving Type 4 Army National Guard facilities would require any EPA actions or activities to be identified as *federal*. These exceptions include:

- If DoD or the U.S. Army is named on the relevant permit, or;
- If the EPA identification number (e.g., RCRA ID number) is linked to DoD or the U.S. Army, or;
- If the state unit is activated as a federalized unit by order of the President of the United States during a time of national crisis

If any of these conditions above applies, then any EPA actions/activities must be identified as *federal*.

All Army, Air Force and Navy Reserve installations also are federally-owned and operated. Therefore, EPA activities associated with Reserve installations will also be identified as *federal*.

#### Neighboring Facilities

Regions will identify the EPA activity as federal if it occurs at a privately-owned/privately-operated facility that abuts a federal facility (i.e., where the property border is shared between the private property and the federal facility) and, where one of the two following circumstances occur.

- 1.) The privately-owned/privately-operated facility has a formal relationship with the federal property and the operations of the privately-owned facility are dependent on the abutting federal property. For example an inspection and any subsequent enforcement action taken against a ski lodge and resort abutting the USDA Forest Service property will be identified as *federal* in the event that the ski-lodge is dependent on and leases the ski trails and other attractions offered on the Forrest Service property.
- 2.) Operations/activities at the privately-owned/privately operated facility affect the abutting federally-owned property. For example, an inspection at a military base, leads to the discovery of a leaking underground storage tank from an abutting privately-owned/privately-operated gasoline station that has contaminated the groundwater may be identified as non-federal, however, any ensuing enforcement action involving the station may be identified as *federal*.

#### Compliance Assistance Activities

EPA defines compliance assistance as activities, tools, or technical assistance that provides clear and consistent information for helping: (1) the regulated community to

understand and meet its obligations under environmental regulations; or (2) compliance assistance providers to aid the regulated community in complying with environmental regulations. Compliance assistance may also help the regulated community find cost-effective ways to comply with regulations or to go “beyond compliance” through the use of pollution prevention, environmental management practices and innovative technologies, thus improving its environmental performance. To be categorized as a compliance assistance project or activity, at least one objective of the project or activity must be related to achieving or advancing regulatory compliance.

This guidance document is not meant to change that definition but to clarify what compliance assistance (i.e. activities, tools or technical assistance that meets the conditions above) must be identified as *federal* in EPA’s databases. Quite simply, if any compliance assistance conducted involves a federal facility as defined above, then the activity should be identified as *federal* in ICIS even if the compliance assistance was not specifically designed and/or held for them. Thus, a workshop designed to help healthcare facilities comply with environmental requirements in which staff from Veterans Administration (VA) facilities along with staff from non-VA facilities attend would be co-designated on the ICIS data entry form as both a *federal* and *non-federal* compliance assistance activity to capture the full extent of compliance assistance available to both sectors.

### **Current Definitions and Types of Federal Facilities Monitored by FFEO**

In 1999, FFEO published the Yellow Book (<http://www.epa.gov/Compliance/resources/publications/civil/federal/yellowbk.pdf>) which served as a guide to enforcement and compliance at federal facilities. In Chapter 1 of the Yellow Book, EPA provided a definition and a description of the various types of federal facilities. The Yellow Book defines Federal Facilities as *buildings, installations, structures, land, public works, equipment, aircraft vessels and other vehicles and property, owned by or constructed or manufactured for the purpose of leasing to the Federal government.*

The traditional type of federal facility is the government-owned/government-operated facility (GOGO) where the government manages all day-to-day activities (e.g., military bases). The second most common type of federal facility is the government-owned/contractor operated federal facility (GOCO), where the government owns the facility and the contractor manages all or a portion of the facility. There are also numerous federal facilities that have some other level of private party involvement at the facility. For example, some federal agencies may lease land to private parties. Table I-1 of the EPA Yellow Book listed below also defines the various types of federal facilities and identifies how each type of facility is classified for information tracking purposes.



**Table I-1: Types of Federal Facilities**

Facility Type	Definition	Information Tracking Classification
GOGO	Government-owned government-operated facility where the government owns and operates all regulated activity.	Federal
GOCO	Government-owned/contractor operated facility owned by a federal agency, but operated in whole or in part by private contractor(s).	Federal
GOPO	Government-owned/private-operated facility where the government has leased all or part of its facility to a private operator of its operation and profit.	Federal
COCO	Contractor owned/contractor operated facility that provides goods and/or services to a federal agency under contract.	Private
COCO(E)	Same as COCO. However, the contractor may be furnished government equipment to manufacture a product or provide service.	Private
POGO	Privately-owned /government operated facility where the government leases buildings or space for its operations.	Federal where an agency occupies all or most of the building space
FUDS	Formerly used defense sites. Sites may or may not be presently owned by a Federal agency. However, the federal agency is responsible for hazardous waste cleanup as a result of previous operations.	Federal
Leasee	Parties granted use of government land by a rental or real estate agreement or title transfer with a reversionary clause (e.g., municipal landfills, oil and gas, mining).	Federal
Grantee	Parties that have received a grant for permanent authorization to use a given right-of-way. Grants usually involve a single payment for the land or transfer of land use rights.	Private
Claimant	Parties having properly located, recorded, and maintained mining claims under the 1872 Mining Law on federal lands for which a patent has not been issued.	Federal when available for entry under the 1872 Mining Law
Patent Holder	A mining claimant who has met the statutory requirements of the 1872 Mining Law and has been issued a permit.	Private
Permittee	Parties granted a permit for short-term use of government land.	Federal
Withdrawal from Public Use	Permit granted to a federal agency or instrument of the federal government to use land of another federal agency for up to 20 years administratively if the intended use does not involve destruction of the land (i.e., military uses, dams).	Federal

On July 29, 2003 the Environmental Data Standards Council (EDSC), which is a partnership among EPA, states and tribal partners, developed the Federal Facility Identification Standard. The purpose of the standard is to provide a consistent means of identifying whether a facility or the land it occupies is owned or operated, or was owned or operated, by the federal government. The definition of federal facility under Section 3.1 of the standard is nearly identical to the definition stated above in the EPA Yellow Book. The EDSC Federal Facility Data Standard consists of a list of data elements, each of which is defined, and relationships or linkages with other agency standards. Managers of EPA information systems that exchange federal facility information were expected to implement the standard by September 30, 2006. The standard data elements and example permissible values are available at <http://www.epa.gov/edr/> .

In most cases, the majority of activities captured and monitored by EPA as federal facility activities generally follow the tracking classification outlined in the Yellow Book table (third column). However, categorizing these activities as *federal* or non-federal becomes more difficult when federal facility management employs or contracts with private-parties to conduct regulated activities at federal facilities. This situation has the potential to erroneously categorize many of EPA's activities.

This guidance does not attempt to replace or change either the Yellow Book federal facility definition or the EDSC Federal Data Standard. Instead it is intended to assist EPA regional and headquarters staff to clarify the types of activities and facilities that should be recorded in EPA's databases.

### **Properly Identifying Federal Facilities in ICIS**

Background: There are two types of general federal facilities in ICIS, the traditional "Federal Facility" category and the "GOCO (Government Owned/Contractor Operated)" category. The federal facility category encompasses the majority of the Federal universe and includes facilities owned and operated by the Military, Department of Energy, and all other Civilian Federal agency facilities. The "GOCO (Government Owned/Contractor Operated)" category is an umbrella term for a number of federal categories such as Government Owned/Contractor Operator, Formerly Used Defense Sites (FUDS), etc. For a detailed listing of the different categories of federal facilities with examples, please refer to page 3 of this guidance or the spreadsheet "Federal Facility Type of Ownership" available in IPOD.

It is important to note that the primary identification of federal facilities for mid/end of year reporting will be done through a combination of fields including the "Facility Type of Ownership" (under the facilities universe) and the activity name. To insure that all traditional and "other" federal facilities are properly counted during reporting, the "Facility Site Name" (under the "Linked Facility" section in ICIS) should be the federal/GOCO facility where the activity actually took place.

Users can only edit the "Facility Type of Ownership" field for facility records that were first created in ICIS. If this field is "grayed out" the User may have to update the federal facility field in its database of origin (i.e., CERCLIS, RCRAInfo, PCS, etc) or add-in "(FF)" at the end of the activity name. Additionally, insert the abbreviation (FF) at the end of the activity name for activities related to Federal interests but that occurred on a non-Federal facility (i.e., private gas station within a military base) site.

### **Summary of ICIS Data Entry Fields:**

1. When creating a new activity (Enforcement Action, Compliance Monitoring, etc), link the "Facility Site Name" to the Federal facility where the activity actually occurred.

2. Select either the category “Federal Facility” or “GOCO (Government Owned/Contractor Operated)” under the “Facility Type of Ownership” for all FE&C records related to Federal facility interests.
3. For activities involving a Federal facility interest but the facility linked to the activity in ICIS is either non-Federal or cannot be updated properly, insert the abbreviation “(FF)” at the end of the Activity name.

ICIS Data Entry Guidelines:

1. The following steps apply to both the Enforcement Action and Compliance Monitoring Activity Universes.
2. After opening or creating a record, click on the “Facilities” tab (Upper left hand corner, just under EPA logo).



3. Under the “List of Facilities” linked to the record, open the Federal facility (or facilities).
4. Under the section “Other Facility Information” (right-side of page), click on the drop-down menu next to the field “Facility Type of Ownership.”

**Other Facility Information**

State Facility Identifier:

Federal Facility ID:

Congressional District Number:

Classification:

**ADD / REMOVE**

Small Business Indicator:

Policy:

**ADD / REMOVE**

Dun & Bradstreet Number:

Section/Township/Range:

Facility Registry ID: 110006000683

Programmatic ID: ICIS 1677527

Federal Agency:

Originating Programs:

**ADD / REMOVE**

Facility Type of Ownership:

-Federal Facility  
- GOCO (Government Owned/Contractor Operated)

5. Select either “Federal Facility” or “GOCO (Government Owned/Contractor Operated)” as applicable.
6. Click “Save”.

Alternatively, for activities involving a Federal facility interest but the facility linked to the activity in ICIS is either non-Federal or cannot be updated properly, insert the abbreviation “(FF)” at the end of the Activity name (shown in the example below).

Enforcement Action Identifier: HQ-2008-9999  
Enforcement Action Name: HQ TEST RECORD (FF)  
Issued By: EPA  
Forum: Administrative

\*Enforcement Action Identifier: ~~HQ-2008-9999~~

\*Enforcement Action Name: HQ TEST RECORD - (FF)

\*Enforcement Action Type: CERCLA 120E Federal Facility Agreement (FFA)

ENFORCEMENT ACTION TYPE