

U. S. Department of Energy
Washington, D.C.

ORDER

DOE 5400.2A

1-31-89

SUBJECT: ENVIRONMENTAL COMPLIANCE ISSUE COORDINATION

1. PURPOSE. To establish the Department of Energy (DOE) requirements for coordination of significant environmental compliance issues to ensure timely development and consistent application of Departmental environmental policy and guidance.
2. CANCELLATION. DOE 5400.2, ENVIRONMENTAL COMPLIANCE ISSUE COORDINATION, of 8-13-87.
3. SCOPE. The provisions of this Order apply to all Departmental Elements and contractors performing work for the Department as provided by law and/or contract and as implemented by the appropriate contracting officer, where DOE has authority to establish and enforce environmental protection, safety, and health protection requirements.
4. DEFINITIONS.
 - a. Significant Environmental Compliance Issue. A significant environmental compliance issue is one which is or has the potential of being precedent setting or controversial, and/or involves Headquarters notification, concurrence, or approval. Examples of environmental compliance issues which may be significant include, but are not limited to:
 - (1) Settlement agreements involving DOE and other potentially responsible parties and regulatory authorities for cleanup of hazardous waste sites.
 - (2) Hazardous waste and mixed waste permits and permit applications.
 - (3) Proposed consent decrees and consent administrative orders related to environmental compliance.
 - (4) Notices of violations, administrative orders, or other notifications from regulator authorities such as State or Environmental Protection Agency (EPA) warning letters or similar actions alleging lack of compliance with environmental regulations or requirements.

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All Departmental Elements

INITIATED BY:
Assistant Secretary for
Environment, Safety, and Health

- (5) Proposed Federal Facility Compliance Agreements, memorandums of understanding, or any other agreements involving environmental compliance with local, State, or Federal entities.
- (6) Lawsuits pertaining to environmental compliance, including proposed settlements, notices of intent to sue, and other related matters.
- (7) Results of verification activities such as inspections, audits, reviews, surveillances, appraisals, or assessments by contractors, field elements, Headquarters, or Federal, State, and local regulatory agencies that reveal noncompliance issues.
- (8) Reports or other notifications to or from Federal, State, or local regulatory authorities concerning violations of environmental regulations, permits, or agreements.

b. Coordination Process. The coordination process is the means by which significant environmental compliance issues will be resolved or disseminated to ensure timely development and consistent application of Departmental environmental policy and guideline.

5 RESPONSIBILITIES.

a. Assistant Secretary for Environment, Safety, and Health (EH-1) shall:

- (1) Coordinate the timely review, resolution, and dissemination of significant environmental issues and related activities with the Office of the general Counsel, affected Headquarters program organizations and affected field elements, as appropriate.
- (2) Promptly notify Headquarters elements, including the Office of General Counsel, of significant environmental compliance issues and related activities bearing on the responsibilities.
- (3) Identify, in consultation with appropriate field and Headquarters elements, the Departmental Element which will act as lead office to resolve the significant environmental compliance issue or related matter. Where significant environmental compliance issues crosscut program offices, EH will generally be identified as the lead office. Where such issues are raised specific to the requirements of nuclear waste policy legislation, the Office of Civilian Radioactive Waste Management (RW) will be identified as the lead office unless otherwise negotiated between EH and RW.
- (4) When identified as the designated lead office for the resolution of a significant environmental compliance issue or related matter, take such actions as necessary for resolution in coordination with other Departmental Elements.
- (5) Request information, as necessary, from program and field elements to: facilitate identification and resolution of significant environmental issues and related activities; enable inter- and

intra-agency coordination; and support the Office of Congressional and Intergovernmental Affairs (CP) in the development of appropriate development of appropriate responses to public, media, and congressional reports.

- (6) Assist field and Headquarters elements in resolving significant environmental compliance issues with agencies.
- (7) Report the status of significant environmental compliance issues and related activities to appropriate Headquarters and field elements to assure timely resolutions.
- (8) Document resolutions of significant environmental compliance issues and related matters and provide copies to program and field elements to ensure consistent and timely application of Departmental environmental policy and guidance.
- (9) Carry out these responsibilities through the Office of Environmental Guidance and Compliance (EH-22), the lead office within EH designated to coordinate significant environmental compliance issues and related actions.

b. Program Secretarial Officer shall

- (1) Advise EH-22 in a timely manner of the following:
 - (a) Significant programmatic environment compliance issues requiring resolution.
 - (b) Significant environmental compliance issues and related activities which come to his/her attention independently and which need resolution
 - (c) Programmatic impact of significant environmental compliance issues and related activities raised for resolution by field elements.
- (2) Provide or assist in obtaining information request by EH-22 to enable appropriate responses to requests for information, or for resolution of significant environmental compliance issues.
- (3) When identified as the designated lead office for the resolution of a significant environmental compliance issue or related matter, take such actions as necessary, for resolution in Coordination with EH-22 and other Departmental elements.

c. General Counsel shall:

- (1) Advise EH-22, in a timely manner, of significant environmental compliance issues and related activities which come to his/her attention independently and which need resolution.

- (2) Provide prompt advice and assistance to EH-22 in resolving environmental compliance issues and related activities within his/her area of responsibility (e.g. consent decrees and consent administrative orders)

d. Heads of Field Elements Shall:

- (1) Identify and advise the lead PSO, EH-22, and Headquarters program elements, in a timely manner to assure Headquarters involvement of significant environmental compliance issues and related activities needing resolution.
- (2) In coordination with the lead PSO, provide EH-22 with information requested to assist in resolution of significant environmental compliance issues and related activities.
- (3) In coordination with the lead PSO, provide EH-22 and the designated lead office with information necessary to enable inter- and intra-agency coordination; and to support CP in the development of appropriate responses to public, media and congressional requests.
- (4) When identified as the designated head office for the resolution of a significant environmental compliance issue of related matter, take such action as necessary, in coordination with the Lead PSO, for resolution in coordination with other Departmental Elements.
- (5) In coordination with the Lead PSO, provide EH-22 information on all environmental permits and permit applications in accordance with the following schedules and criteria:
 - (a) Those involving significant issues shall be reported in accordance with Attachment 1
 - (b) Information on existing and anticipated permits for DOE facilities shall be submitted (or updated) annually to EH-22 by 10/1. The format for these reports shall be consistent with the format provided in Attachment 2

- e. Director, Naval Nuclear Propulsion Program: Executive Order 12344, statutorily prescribed by PL 98-525 (42 USC 7158 note), establishes the responsibilities and authority of the Director, Naval Nuclear Propulsion Program (who is also the Deputy Assistant Secretary for Naval Reactors within the Department) over all facilities and activities which comprise the Program, a joint Navy-DOE organization. The policy principle promoted by these executive and legislative actions is cited in the Executive Order as "... preserving the basic structure, policies, and practices developed for this Program in the past ..." Accordingly, based on the Executive Order and this policy principle, the Naval Nuclear Propulsion Program is exempt from the provision of this Order.

The Director shall maintain an environmental protection program to assure compliance with applicable environmental statutes and regulations. The Director and EH-1 shall cooperatively develop information exchange and other mutually beneficial programs as appropriate consistent with PL 98-525.

BY ORDER OF THE SECRETARY OF ENERGY:

LAWRENCE F. DAVENPORT
Assistant Secretary
Management and Administration

COORDINATION OF SIGNIFICANT ENVIRONMENTAL COMPLIANCE ISSUE
OR RELATED ACTIVITY

ISSUE: (Statement and significance of specific issue raised.)

INITIATING FIELD/PROGRAM ELEMENT: (Identify appropriate source of issue, i.e., Field/HO Element and point(s) of contact.)

STATUTE(S): (Identify appropriate statute(s), including citation(s).)

REGULATION(S): (Identify appropriate regulation(s), including citation(s).)

REGULATORY AGENCY or AGENCIES INVOLVED: (Identify any Federal, State or Local regulatory agencies which may be involved in the issue raised.)

SUMMARY INFORMATION: (Statement of appropriate factual information concerning the significant environmental compliance issue or related activity, and appropriate background information on the regulatory aspects of the issue. Use attachment as necessary).

ACTIONS TAKEN TO DATE (if any) AND CURRENT STATUS: (Describe any action taken to date to resolve issue, and current status of issue resolution, if appropriate.)

ACTIONS PLANNED: (Describe any planned actions which will be taken to resolve issue raised.)

ISSUE RECOMMENDATION/
ADDITIONAL COMMENTS: (Provide proposed recommendation for coordination by EH-22 or other Departmental Elements or additional comments, as appropriate.)

HEADQUARTERS ACTION:

Information Dissemination

Concurrence

Issue Resolution

ISSUE DISPOSITION:

(To be completed by EH-22 after action is taken and provided to appropriate program and field elements.)

