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FedFacs

an environmental bulletin for federal facilities

ROCKY FLATS CLEANUP AGREEMENT SIGNED

On July 19, 1996, after nearly three years of intensive negotiations between EPA, DOE, and the State of Colorado, the new Rocky Flats Cleanup Agreement was signed in Denver, Colorado. EPA Deputy Administrator Fred Hansen praised the RFCA as "truly a landmark agreement for allowing the rapid cleanup of one of our most important Superfund sites." The agreement contains a number of innovative provisions designed to expedite cleanup activities at the Rocky Flats site, which will include removal of plutonium and other fissile materials, protection of water quality, and cleanup and conversion of buildings.

From left: Jessie Roberson, Rocky Flats site manager; DOE Assistant Secretary Alvin Alm; Patti Schwayder, Executive Director, CDPHE; Governor Roy Romer; Lt. Governor Gail Schoettler; EPA Acting Regional Administrator Jack McGraw.

The agreement divides the site into two areas and designates lead regulators — the State of Colorado for the industrial area, and EPA for the environmental buffer zone. This clear division of authority gives DOE a single point of contact for each cleanup activity and should reduce the potential for overlap and duplication. The agreement also provides cleanup

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Director's Word

CRAIG HOOKS

Dear Reader:

This is my first time contributing to this column. As many of you may know, a few months ago, Barry Breen, formerly the Director of the Federal Facilities Enforcement Office, left to become Director of EPA's Office of Site Remediation and Enforcement. It is my privilege to pick up where he left off.

Compliance assistance and environmental enforcement activities are inherently dynamic, their emphasis changing with current events. Amendments to environmental statutes and regulations prompt new compliance questions and changes in enforcement actions. Recent Safe Drinking Water Act amendments, for example, prompted FFEO to begin developing interpretative guidance for federal facilities. FFEO must be vigilant to interpret regulatory changes and quickly adjust our compliance assistance and enforcement work. We welcome your comments and suggestions.

Barry named this column the Director's Word. My word for this issue is "trust." I hope this FedFacs provokes thoughts about the relationship between

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GuestSpot

AL ALM

Assistant Secretary, U.S. DOE

The Department of Energy established the Environmental Management (EM) program to reduce health and safety risks from radioactive waste and environmental contamination resulting weapons production, testing, and research. With 150 sites in over 30 states, the EM program is the largest single environmental stewardship program in the world.

Major changes have taken place over the last three years to improve the pace of cleanup, manage projects more effectively, shave inefficiencies, and incorporate risk into decision-making. All of those efforts have made EM more successful at producing on-the-ground tangible results.

Site workouts to reduce costs, performance-incentive contracts, and the creation of site-specific advisory boards have all helped EM drive down the price of cleanup over the past three years and bring the public into our decision-making process. This has provided a strong foundation for the next steps in the program — to accelerate cleanup at most DOE sites and to complete as much work as possible within a decade.

Since taking over the EM program in May 1996, I have begun to implement our primary goal of reducing most of the programmatic risks and mortgages over a ten-year period. This goal is incorporated in our vision statement for the Environmental Management program which will drive budget decisions, privatization, sequencing of projects, and actions taken to meet program objectives— all in conjunction with regulators and stakeholders.

Achievement of the vision will be guided by the following seven principles:

(1) Reduce mortgage costs to free up funds for further risk reduction.

(2) Reduce overhead and support costs, devoting savings to value-added work.

(3) Eliminate and manage the most serious risks in the system.

(4) Protect worker health and safety.

(5) Create a collaborative relationship between DOE and its regulators and stakeholders.

(6) Focus technology development on cost and risk reduction.

(7) Establish a system that is managerially and financially in control.

The vision and principles will be implemented through an integrated planning, budgeting, and management system. The purpose of this planning exercise is to develop a creative plan to complete cleanup at most sites in the former nuclear weapons production complex over the course of a decade, as well as to determine which waste streams will not be completed in that time, and to decide how the program will continue to treat them until work is fully complete.

Stakeholder involvement is central to devising, implementing and achieving the Ten-Year Plan. Since our sites submitted their draft ten-year plans this past July, I have met with or held conference calls with stakeholders from each site. In total, I have communicated with many hundreds of citizens and public officials. EM will not modify agreed-upon assumptions or final goals without actively engaging our stakeholders, tribal nations, and regulators in a deliberative process.

Issues raised in draft versions of the plans that cannot be resolved with our stakeholders and regulators will not be included in the first edition of the Plan. Rather, we will work with our stakeholders to resolve these issues before we incorporate them into an updated version of the Plan. It is critical to understand that the Plan is a living document which must be updated periodically to factor in decisions reached on these outstanding issues and other realistic changes that will occur over the ten-year time period.

Our move to ten-year site plans may result in some modifications to previously existing priorities. But their greatest effectiveness will lie in specifically communicating the status of cleanup at any given site at any given date over the next ten years. The ten-year site plans will lay out these goals for each of the sites over the next few months. In so doing, we will establish a long-term framework to guide the EM program as we proceed to clean up the environmental contamination wrought by 45 years of nuclear weapons production.

Al Alm is the Assistant Secretary of Environmental Management with the U.S. Department of Energy.

FedFacs

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TRI REPORTING COMES TO FEDERAL FACILITIES

For the first time, the latest report of the Toxics Release Inventory includes information on toxic releases from federal facilities. TRI reporting by federal facilities was mandated under Executive Order 12856, signed by President Clinton in August 1993. The latest report, published in June 1996, covers the 1994 reporting year. The goal of the reporting requirement is to ensure that the public has access to the most comprehensive information possible on releases and transfers of toxic chemicals, to hold federal facilities accountable for their activities, and to encourage them in reducing their use of toxic chemicals at the source.

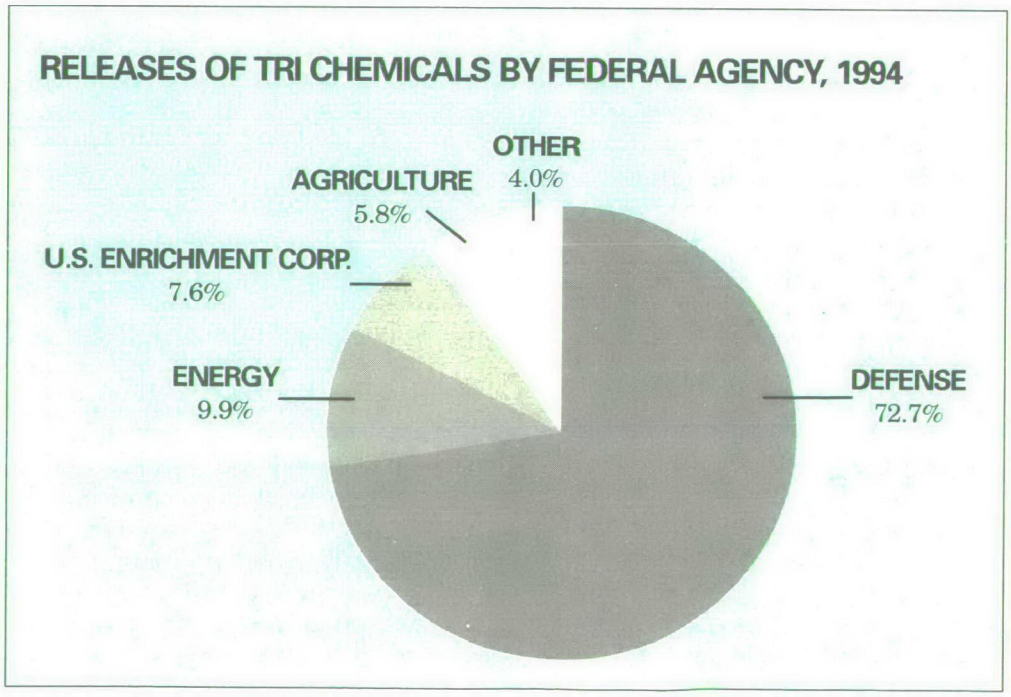
For 1994, 191 federal facilities operated by 12 federal agencies and located in 43 states became subject to TRI reporting. The 1994 data show total releases of 9. 8 million pounds. Off-site transfers totalled 10. 4 million pounds. Unlike the private sector, where transfers are almost twice the amount of releases, total releases and transfers for federal facilities are similar.

Federal releases also differ from private sector releases in the types of chemicals involved. Only 16 of the top 25 chemicals released from federal facilities are also in the top 25 for total releases from all facilities. Most of these 16 chemicals, which typically are used as solvents and for cleaning equipment, are released primarily to air. The top two chemicals reported by the government (almost exclusively by DOD) are dichloromethane and methyl ethyl ketone, which together account for nearly one third of all releases reported by federal facilities. These chemicals are commonly used as solvents and paint strippers.

The top four federal agencies releasing TRI chemicals were DOD, DOE, U.S. Enrichment Corp., and Agricultural (see pie chart). By far the largest number of federal facilities reporting TRI data are DOD facilities — 127 facilities, or 73 percent of the amount of releases reported. Within DOD, the Air Force accounts for the preponderance of the releases (67%); the vast majority of Air Force releases are air emissions, largely from air craft maintenance, including corrosion control, structural maintenance, and the cleaning and repairing of equipment.

TOP 20 FEDERAL FACILITY RELEASERS	Total TRI Releases
U. S. Air Force, Tinker AFB, OK	1,615,119
U. S. Air Force, Robbins AFB, GA	696,317
USDA Agricultural Research Service, Clay Center, NE	486,120
U. S. DOE Naval Petroleum Reserves, Tupman, CA	463,248
U. S. Enrichment Corp. , Piketon, OH	385,946
U. S. Enrichment Corp. , Paducah, KY	364,760
U. S. Marine Corps Cherry Pt. Air Station, Cherry Point, NC	314,610
U. S. Air Force Plant 06 GA, Marietta, GA	304,897
U. S. Navy Naval Air Station, Jacksonville, FL	291,383
U. S. Air Force McClellan AFB, Sacramento, CA	282,720
U. S. Army Anniston Army Depot, Anniston, AL	280,935
U. S. Air Force, Kelly AFB, TX	278,544
U. S. Air Force Ogden Air Logistics, Hill AFB, UT	277,660
U. S. DOE Idaho National Engr. Lab, Scoville, ID	236,591
U. S. Air Force 138th Fighter Group, Tulsa, OK	236,550
U. S. Marine Corps Logistics Base, Albany, GA	215,400
U. S. Air Force Flight Test Center, Edwards AFB, CA	170,830
U. S. Air Force Engr. Devel. Center, Arnold AFB, TN	154,422
U. S. Air Force, Wright-Patterson AFB,	148,000
NASA Marshall Space Flight Center, Huntsville, AL	131,865

The top 20 federal facilities with the largest total TRI releases in 1994 are shown above.



ENVIRONMENTAL MANAGEMENT REVIEWS OFFERED TO FEDERAL AGENCIES

It's not an inspection; it's not an audit. What is an Environmental Management Review? In formal terms, an EMR is an evaluation of an individual facility's program and management systems to determine the extent to which a facility has developed and implemented specific programs and plans which, if properly managed, should ensure compliance and progress towards environmental excellence. EPA is implementing a pilot program in which it is offering to conduct EMRs at federal facilities that are interested in gaining an understanding of the underlying causes of current or potential compliance problems and develop suggestions for correcting them. Unlike enforcement inspections, EMRs are consultative technical assistance site visits. Their focus is on the quality of the program and its implementation, not on specific compliance requirements.

EMRs are a new tool developed by EPA to help federal agencies improve their environmental performance. A series of studies over the last decade by EPA, Congressional offices, and individual agency inspector generals have criticized the pace of environmental compliance and cleanup by federal agencies.

EPA's operating principles for conducting EMRs at federal agencies during the pilot phase of the program are as follows:

EMRs FOCUS ON THE QUALITY OF THE PROGRAM AND ITS IMPLEMENTATION, NOT ON SPECIFIC COMPLIANCE REQUIREMENTS.

- *Voluntary participation.* The participation by a federal facility is entirely voluntary and will not place the facility on a target list for inspections.
- *Advance notification.* A federal facility will be contacted at least one to two months in advance of a visit to solicit interest, and to ask for appropriate written documentation of the facility's environmental management system.
- *Mutually agreeable dates.* The EMR will be scheduled at the convenience of the federal facility. Information on the review will be provided prior to the visit.
- *Signing of "ground rules letter."* The facility manager and EPA regional management may co-sign a letter that lays out the ground rules for the EMR, including providing EPA staff with access to appropriate personnel and documents.
- *Exit briefing with facility management.* Each EMR visit will include an exit briefing or close-out session in which preliminary EMR results are shared with the host facility. Provisions for additional technical assistance, such as future pollution prevention assessment, can be discussed at this time.
- *EPA report in 60 days.* EPA's written report will discuss findings and provide recommendations. If requested, EPA may share draft findings prior to issuance of the final report. Any communication from EPA with respect to incidental violations found will be conducted separate from the EMR report.
- *Facility response plan in 60 days.* Sixty days after receipt of EPA's EMR report, the facility will produce a brief response plan that explains how it plans to address the EMR findings.
- *Progress report in 6 months.* Another facility report will be expected six months after submittal of the response plan to EPA.

The scope of an EMR is limited, compared to a full-scale audit of environmental management systems. Each EMR will likely address one or more elements of an effective system, such as: organizational structure, environmental commitment, formality of program, communications, staff resources and training, program evaluation and reporting, and planning and risk management.

For more information on EMRs, contact Andrew Cherry, FFEO, 202-564-5011.

ENVIRONMENTAL COMPLIANCE STATUS REPORTS

FFEO recently distributed an Environmental Compliance Status Report (ECSR) to civilian federal agencies to keep them apprised of EPA-recorded enforcement and compliance activities at their facilities. Using data from the Federal Facilities Tracking System, the first reports covered FY 1995 and the second quarter of FY 1996. Subsequent reports will be provided on a quarterly basis.

ECSRs show if any facilities are in a state of significant noncompliance, provide a graphic view of inspections and enforcement actions, and give a detailed listing of inspections and the resulting actions at individual facilities. This information is used by the recipient federal agency to verify its own recordkeeping and to ensure the accuracy of EPA's data. Each agency is asked to complete a Discrepancy Report Form for any inaccuracies in the data.

For more information, contact Kelly Conrad, FFEO, 202-564-2459.

ENVVEST COMES TO VANDENBERG AFB

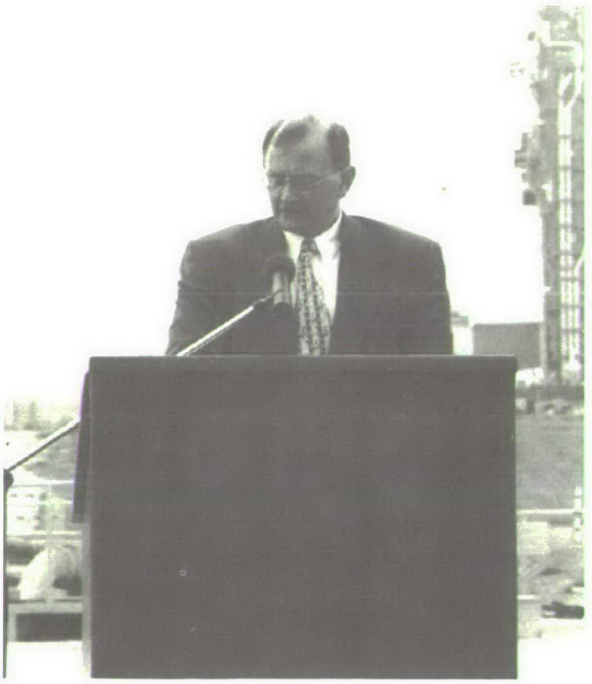
This past summer saw the kick-off event of the joint EPA-DOD pilot program "ENVVEST" at Vandenberg Air Force Base in California. The ENVVEST concept, which is similar to EPA's Project XL for non-military facilities, allows military installations, in conjunction with federal, state, and local regulators, to test cost-effective alternative approaches to achieving environmental protection. Vandenberg was the first DOD installation to sign up for relief from selected EPA regulations, and plans to redirect environmental compliance funds into water conservation, air, and water pollution prevention projects.

Among Vandenberg's proposals are a reduction in NOx emissions by a minimum of 10 tons during the five-year life of the ENVVEST project, and closed-loop recycling for wastewater and on-site batch treatment plants at three major space launch complexes.

DOD will conduct an independent evaluation of the progress of the program. DOD Under Secretary Sherri Goodman noted that if ENVVEST is successful, both DOD and EPA hope to duplicate it nationwide. "ENVVEST opens the door to creative solutions for local problems," she noted. "In twenty years, we will look back at this event, and wonder why we didn't do this sooner." A final project agreement is expected to be signed in early 1997.

"You should be prepared to take some risks to achieve your goals and you must think about how creative technologies developed through ENVVEST can be shared with others both within and outside of the federal community."

— Deputy Under Secretary of Defense for Environmental Security Sherri W. Goodman at kick-off event, Vandenberg AFB, July 24, 1996



EPA Assistant Administrator Steve Herman at Vandenberg AFB.

AGREEMENT REACHED ON DISMANTLING MINUTEMAN MISSILE SILOS

Late last year, EPA and the U. S. Air Force joined forces to save taxpayers millions of dollars while developing safeguards to protect human health and the environment. The occasion was the retirement of the Minuteman II missile system, announced in February 1990 as part of the Strategic Arms Reduction Treaty (START). After much study and public comment, the Air Force decided to implode the missile silo headworks and cap the silos at two sites: Ellsworth AFB in South Dakota and Whiteman AFB in Missouri. Each site had 150 launch facilities, each of which included a silo, and 15 control centers.

As the first dismantling of the missile systems began, the missile silos were discovered to be coated with a weather proofing material containing varying levels of polychlorinated biphenyls (PCBs). Underground storage tanks were also discovered to be coated with PCBs as well as asbestos. Subsequent sampling showed PCBs present on every type of structure sampled at the missile site.

In November 1995, EPA and the Air Force signed a Federal Facilities Compliance Agreement addressing the problems, with provisions for the development of a comprehensive groundwater monitoring plan, long-term environmental monitoring, deed restrictions, closure/removal of underground storage tanks, and reporting requirements. The agreement is unique in providing for affected states to negotiate and execute their own annex of state requirements in addition to the general provisions of the agreement. In case of disputes, final resolution rests with the Director of FFEO, allowing for quick resolution of disputes without elevating them to the EPA Administrator. Concurring in the agreement were the states of Missouri, South Dakota, and North Dakota, and EPA Regions 7 and 8. This precedent-setting agreement will serve as a model for active missile sites as well as other missile sites slated for closure.

For more information, contact Diane Lynne, FFEO, at 202-564-2587.

NewsResources

NEW SAFE DRINKING WATER ACT STRENGTHENS OVERSIGHT OF FEDERAL FACILITIES

On August 6, 1996, President Clinton signed the Safe Drinking Water Act Amendments of 1996. The bill was passed by a strong bipartisan majority of both the Senate and House of Representatives on August 2, 1996. Included in the new law are several provisions designed to strengthen compliance at federal facilities.

First, the law amends the waiver of sovereign immunity to make it clear that federal agencies are subject to penalties for SDWA violations. (This provision is similar to the waiver of sovereign immunity in the Federal Facility Compliance Act of 1992 subjecting federal agencies to penalties for violations of RCRA.) The President may still exempt a federal facility from compliance with any requirement, if the President determines it to be in the paramount interest of the United States. Second, the new law gives EPA the authority to assess administrative penalties against federal agencies of up to $25,000 per day per violation. This penalty cap is the same as the amount that EPA may assess against non-federal entities in civil judicial actions. Before the penalty becomes final, EPA must provide the agency notice, an opportunity to confer with the Administrator, and an opportunity for a hearing on the record in accordance with the Administrative Procedures Act.

The law also allows an interested person to obtain judicial review of an administrative penalty order issued by EPA against a federal agency in district court. The order may be set aside or remanded if there is not substantial evidence in the record to support the finding of a violation or if the assessment of the penalty constitutes an abuse of discretion by EPA. The court also may not impose an additional penalty for a violation unless it finds that the assessment by EPA constitutes an abuse of discretion. Finally, the new law strengthens the citizen suit provisions of SDWA by allowing any person to commence a civil action in district court against any federal agency for the collection of an administrative penalty assessed by EPA that is not paid within 18 months after the effective date of the final order.

EPA ISSUES CODE OF ENVIRONMENTAL MANAGEMENT PRINCIPLES

On October 16, 1996, EPA published the Code of Environmental Management Principles (CEMP) in the *Federal Register* (61FR 54062, Oct. 16, 1996). The CEMP is a broad-based set of environmental principles that EPA developed in consultation with other federal agencies under Executive Order 12856. EPA is asking federal agency executives to adopt the code in a written statement of support that also describes the agency's plans for implementation of the Code at the facility level. Agencies can choose to directly implement the CEMP Principles at the facility level or use another alternative environmental management system such as ISO 14001. This flexible approach recognizes that individual federal facilities and installations may already have environmental management systems in place or may be considering adoption of the ISO 14001 Environmental Management Standard.

EPA has been working to develop the CEMP through the Interagency Pollution Prevention Task Force, which was created by the Executive Order, since January 1995. EPA believes that the federal government should make a public commitment to voluntarily adopt an appropriate code of environmental ethics or conduct, which is at least equivalent to the commitment demonstrated by environmental leaders in the private sector. If federal agencies are held accountable for implementing these principles, then significant progress can be made toward improving public trust and confidence in federal facility environmental performance.

The five principles embodied in the Code are as follows:

1. **Management Commitment:**

   The agency makes a written top-management commitment to improved environmental performance by establishing policies which emphasize pollution prevention and the need to ensure compliance with environmental requirements. Organizations that consistently demonstrate management support for pollution prevention and environmental compliance generally perform at the highest levels and will be looked upon as leaders that can mentor other organizations wishing to upgrade their environmental performance.

2. **Compliance Assurance and Pollution Prevention:**

   The agency implements proactive programs that aggressively identify and address potential compliance problem areas and utilize pollution prevention approaches to correct deficiencies and improve environmental performance.

3. **Enabling Systems:**

   The agency develops and implements the necessary measures to enable personnel to perform their functions consistent with regulatory requirements, agency environmental policies and its overall mission. This would likely include training of personnel as well as other agency procedures, standards, programs, and goals.

4. **Performance and Accountability:**

   The agency develops measures to address employee environmental performance, and ensure full accountability of environmental functions. For example, an agency should

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STATE OF FEDERAL FACILITIES UPDATED

EPA and the states performed over 2,600 inspections at federal facilities during FY 1993-94, resulting in 979 enforcement actions. This and other statistics are available in *The State of Federal Facilities: An Overview of Environmental Compliance at Federal Facilities, FY 1993-94,* recently published by FFEO and available through electronically the Enviroene bulletin board system (via the Internet at http://es. inel. gov). This report is a follow-up to an earlier volume which covered the environmental compliance status through the end of FY 1992.

The current report provides a two-year snapshot of federal facility performance under eight environmental statutes, along with enforcement highlights and information on EPA's role in base realignments and closures. Averaged over the FY 1991-94 time frame, compliance by federal facilities was highest for the Safe Drinking Water Act (99. 0%), the Clean Air Act (91%), and the Toxic Substances Control Act (91%) (see accompanying figure). Lower compliance rates were achieved for requirements under RCRA (58%) and the Clean Water Act (88%). Comparative data from the private sector are also provided in the report.

For more information, contact Kelly Conrad, FFEO, 202-564-2459.

ENVIRONMENTAL RESTORATION DIALOGUE COMMITTEE RELEASES LANDMARK REPORT

A landmark report by the Federal Facilities Environmental Restoration Dialogue Committee was released in April 1996 detailing the consensus reached by the committee's 50 members on how to improve federal facility cleanups. Members of the committee include representatives from EPA, USDA, Interior, DOE, DOD and its military services, the Agency for Toxic Substances and Disease Registry, state, tribal, and local governments, and numerous other environmental, community, environmental justice, and labor organizations. The report itself represents a mammoth effort to bring together all parties to improve the way cleanups are conducted nationally. Various chapters of the report address community involvement, considerations of local governments and environmental justice communities, and the effective use of advisory boards at sites.

An important component of the final report was the work done to address the issue of how to mesh the federal budget building process with the need to set enforceable milestones over the life of a cleanup project. The chief focus of the recommendations was on promoting a process that would cause federal facility cleanups to proceed at a pace that would ensure protection of human health and the environment and which would allow parties to cleanup agreements to address funding issues (both budget development and funding shortfalls) in a more open and productive manner.

Pivotal to the discussion of funding and priority setting was the discussion of how to balance Executive Order 12088 — which has been interpreted as requiring the heads of federal agencies to request sufficient funds in their budget submissions to meet all of their environmental cleanup requirements — with current policy that agencies submit budgets that meet certain predetermined budget targets.

The Committee suggested approaches to both priority setting and milestone setting that can be used and amplified on as new agreements are developed or existing agreements modified. First, while protection of human health and the environment are key starting points for setting cleanup funding priorities, the Committee notes that numerous other factors should be taken into account in setting priorities for individual sites, such as the need to reduce infrastructure cost, environmental justice, the need to restore land for community use, availability of appropriate technologies, and life cycle

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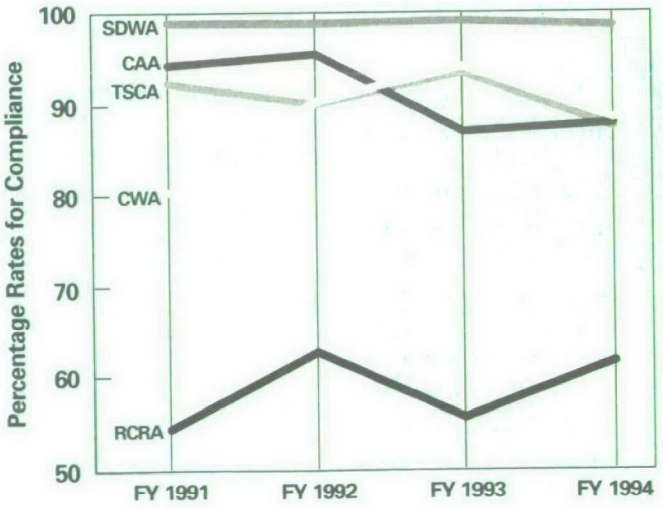
FEDERAL FACILITY COMPLIANCE RATES, FY 1993-94



ENVIRONMENTAL RESTORATION

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cost of the project. Risk ranking schemes should be considered, but should serve as a point of departure rather than as a rigid list of priorities.

For newly negotiated interagency agreements, the Committee recommended that near-term, out-year, and project end date milestones should be set and funding requested in a time frame appropriate to the federal budget process. Once set, milestones should not be changed without regulator approval. While regulators agreed to meet at least annually with regulated Agencies at each site to finalize milestones following budget allocation, it was recognized that circumstances might warrant challenging budget constraints where insufficient funds were allocated to environmental cleanup.

Throughout, the Committee emphasized the importance of stakeholder consultation in making key decisions — both with respect to priority setting and milestone setting or revision. The recommended process, while strongly focused on rescoping or rescheduling other activities or identifying opportunities for cost efficiencies prior to amending milestones, recognizes that the parties to interagency agreements retain the options of dispute resolution and enforcement. Finally, the Committee did not recommend reopening existing agreements, but noted that where it was agreed between the parties that it would be beneficial to do so, the above approach should be considered.

For more information, contact Darlene Boerlage, 202-564-2593, or Joyce Olin, 202-564-2582, at FFEO.

FFEO APPLIES ETI GRANT TO ENFORCEMENT AGREEMENTS

In coordination with FFEO, the Environmental Law Institute (ELI) and Clean Sites will conduct pilot projects at selected federal facility sites which are subject to cleanup and compliance agreements. The pilots will involve a negotiated effort to apply promising new technologies at sites for cleanup and/or pollution prevention, where their application may require adjustment of milestones or enhanced flexibility of other aspects of enforcement agreements. Pilots may also include the use of innovative technologies for environmental projects such as Supplemental Environmental Projects (SEPS). It is anticipated that an "innovative technology project committee" will be formed to advise ELI on the site selection as well as other aspects of the project.

In addition to the solicitation and commencement of the pilots, ELI will also compile a manual. The manual will include instructive materials such as success stories derived from situations involving enforcement flexibility which yielded the demonstration and application of innovative technologies. At the project's conclusion, it is anticipated that ELI and Clean Sites will organize a national conference to review results.

This project is being undertaken through a grant from the Environmental Technology Initiative (ETI). EPA's ETI promotes the development, commercialization, and use of environmental technology to improve environmental quality while fostering the creation of new jobs and businesses. This project corresponds to EPA's Technology Innovation Strategy of adapting EPA's policy, regulatory, and compliance framework to promote innovation; strengthening the capacity of technology developers and users to succeed in environmental technology innovation; strategically investing EPA funds in the development and commercialization of promising new technologies; and accelerating the diffusion of innovative technologies at home and abroad. The goal of this project is to routinize the use of enforcement agreements in facilitating application of innovative technologies for environmental cleanup and compliance projects at federal facilities.

For more information on the project or to be added to the mailing list, please call Diane Lynne at FFEO at 202-564-2587 (fax: 202-501-0644) or Melinda Holland, Clean Sites, at 864-457-4202 (fax: 864-457-5393).

FEDERAL FACILITY COMPLIANCE AGREEMENT REACHED ON PCBs

On August 8, 1996, EPA signed an agreement with the Department of Energy and the Naval Nuclear Propulsion Program (NNPP) addressing their continued storage of radioactive PCB wastes beyond the one year limit specified in TSCA. According to DOE and the NNPP, the capacity currently available for the disposal of covered PCB wastes is not sufficient to accommodate their current inventories of such wastes. Even when additional treatment facilities are approved, it will take several years to process the volume of covered PCB wastes being stored. DOE and the NNPP are also unable to comply with certain outdated Department of Transportation container requirements also specified in the PCB regulations.

The agreement, which covers over 20 DOE facilities and three naval shipyards, is intended as a bridge between the current situation and EPA's final PCB regulations which are expected to be issued in the next year. Under the agreement, DOE and the NNPP will submit a joint Annual Status Report to FFEO and the affected EPA Regional Offices describing the covered PCB wastes exceeding the one-year storage limit, efforts to dispose of the wastes, and alternative technologies under development to remove the wastes.

For more information, contact Diane Lynne at FFEO, 202-564-2587.

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The Hammer

Region 1 — On July 15, 1996, EPA issued orders to three separate tenants at the Massachusetts Military Reservation (MMR) assessing a total of $222,310 in penalties for failures to properly conduct hazardous waste determinations and comply with land disposal restriction requirements, among other RCRA violations. Complaints and compliance orders under RCRA Section 3008(a) were issued to the U.S. Air National Guard ($93,710) for the Otis Air National Guard Base; the U.S. Army National Guard ($88,600) for Camp Edwards; and the 1st Battalion 25th Marines ($40,000) for its Marine Corps Reserve Center. All three orders result from a multimedia inspection in August 1995. The actions highlight the Region's effort to combat environmental degradation in the South Coastal watershed of Massachusetts. The Massachusetts Military Reservation covers some 3,900 acres on a 21,000-acre parcel of land on Cape Cod. The municipalities of Bourne and Sandwich and the Air Force base have an estimated population of 36,000, with drinking water wells and irrigation wells within three miles of hazardous substances at the site.

Region 2 — On February 22, 1996, Region 2 issued a complaint, compliance order, and notice of opportunity for hearing for hazardous waste violations against the U.S. Army Military Academy at West Point, NY. The order included a total assessed penalty of $24,496 for alleged RCRA storage and manifesting violations related to hazardous waste from laboratory, training, and vehicle and equipment maintenance operations. The violations were discovered during an August 1995 RCRA compliance evaluation inspection at the facility.

Region 3 — EPA Region 3 conducted two intensive multimedia compliance inspections in 1995, at the Washington Navy Yard and the Southeast Federal Center. Based on the inspection results, EPA has been meeting with Navy Yard officials to address outstanding compliance issues in a 3008(a) enforceable Agreement and cleanup issues in a Consent Order under RCRA Section 7003. During early June, the Navy agreed to contract for the immediate cleanup of contaminated sediments in three outfall locations and to schedule additional cleanups in 1997. EPA also issued two Notices of Violation to the Navy in June for RCRA underground storage tank violations at the Navy Yard and Anacostia Naval Station; both are pending resolution.

Region 9 — On August 22, 1995, Region 9 issued a complaint and compliance order to the Bureau of Reclamation's Yuma Desalting Plant, located in Yuma, Arizona, assessing $265,025 in penalties. The actions stem from a March 6, 1995 EPA inspection of the facility, during which inspectors observed 61 containers (equal to 35 full 55-gallon drums) of hazardous waste at the facility in and around the storage area. The containers, which had been stored on site for up to 40 months without a permit, contained ignitable waste, corrosive waste, reactive waste, chromium, lead, etc. EPA determined that the likelihood of release to the environment and danger to BOR employees was great. Settlement negotiations are ongoing.

Region 9 — On December 15, 1995, EPA Region 9 cited the Department of the Interior's National Park Service for violations at Hawaii Volcanoes National Park, proposing a $243,800 penalty. During an inspection the previous July, EPA determined that the Hawaii facility had stored hazardous wastes without a RCRA permit from December 1994 to October 1995. The waste, stored in containers near a maintenance yard in the park, contained amounts of acetone, chromium, lead, xylene, phenol, arsenic, mercury, and other hazardous wastes. The Department of the Interior was also cited for storing the wastes in rusted or leaking containers. The facility has removed the waste, developed a comprehensive waste management plan, and submitted a closure plan for the waste storage area. Penalty negotiations are ongoing.

ENFORCEMENT ROUNDTABLE, SAN ANTONIO, TX

October 17-19, 1996

by Darlene Boerlage, FFEO

I recently had the opportunity to participate in the first EPA Office of Enforcement and Compliance Assurance Roundtable held in San Antonio, Texas. The Roundtable was intended to enhance the public's opportunities for involvement in EPA's enforcement process.

The Roundtable began with a tour of environmental justice sites around San Antonio. One of the visits on the tour was to North Kelly Gardens, a small Latino community of approximately 30 homes just outside of the fence-line from Kelly Air Force Base. Community representatives stated that they were not adequately represented on the Restoration Advisory Board for the site, that there was not an adequate emergency evacuation plan, and that the Air Force has not kept them informed of environmental actions impacting their community.

The Roundtable meetings provided a forum for community, environmental organizations, industry, states, and local governments to develop recommendations on aspects of the enforcement process including: federal and state roles, inspections, screening, targeting, community monitoring, community notification and resolution of complaints, environmental restoration and cleanup projects, settlements, performance partnerships and memoranda of agreement, environmental impact statements, and Title VI of the Civil Rights Act of 1964. Break-out sessions were highly interac-

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ROCKY FLATS

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standards for surface water, ground water, surface and subsurface soils, and buildings to help the parties agree on appropriate cleanup actions. Importantly, the agreement means that EPA, the State, and stakeholders are now directly involved in DOE's budget planning process. This will allow the parties and stakeholders to view the site as a whole and prioritize cleanup actions and regulatory milestones to address the highest risks first.

Finally, the Rocky Flats agreement contains special provisions to deal with the stabilization and consolidation of plutonium inside of buildings. Included as an appendix to the agreement is a Memorandum of Understanding (MOU) with the Defense Nuclear Facilities Safety Board (DNFSB), which has statutory oversight authority over plutonium activities at DOE facilities. This MOU, the first of its kind for DOE, establishes areas of lead regulation or oversight for DNFSB, the State, and EPA for cleanup activities within buildings. The Rocky Flats agreement also includes a process whereby DOE consults with EPA, the State of Colorado, and DNFSB in establishing "target activities" for plutonium activities which will then be incorporated each year into the agreement. The public will be notified if DOE wishes to modify a target date or fails to meet it; DOE, in consultation with EPA, the State, and DNFSB, will develop a corrective action plan to address the issue. DOE will then keep EPA, the State, and DNFSB informed as to the status of the implementation of the corrective action plan. Dates for activities which follow the completion of a target activity, such as building decommissioning activities which can only be initiated after plutonium management activities within buildings are completed, will be established under the Rocky Flats agreement as enforceable milestones with specific monetary penalties.

DIRECTOR'S WORD

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environmental compliance and public trust. The people trust the federal government to properly manage our federally owned and operated facilities. Has the federal government earned the public's trust?

According to the Federal Facilities Environmental Restoration Dialogue Committee (FFRDC) report discussed in this issue, over the next 75 years, federal agencies will be liable for cleaning up over 61,000 hazardous waste sites, with cleanup costs ranging around one-third of a trillion dollars. The FFRDC report comments that a lack of public involvement in the past, due to national security concerns, bred significant mistrust among the public, especially where federal facility environmental problems affected communities of color and low-income communities. The report, however, commends federal agencies for making great progress recently in involving the public in environmental decision making. Although the federal government is responsible for thousands of sites due to past environmental practices, it is gaining credibility due to its efforts at community involvement in the cleanup process.

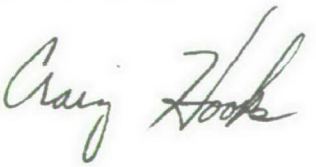
Does current environmental compliance behavior warrant the public's trust? This issue of FedFacs offers several articles on point. For compliance statistics, FFEO recently published *The State of Federal Facilities: An Overview of Environmental Compliance at Federal Facilities.* This report summarizes compliance results from 2,600 EPA and state inspections. Also see the results of the first Toxics Release Inventory (TRI) that includes toxic releases from federal facilities. A goal of TRI is to hold federal facilities accountable for their activities and to encourage them to reduce their use of toxic chemicals at the source. Accepting responsibility for toxic releases and reducing the federal government's reliance on toxic chemicals are two very good ways to demonstrate to the public we are worthy of their trust.

Another way is to inform the public of the results of an Environmental Management Review (EMR) or environmental audit. I hope this issue's article on EMRs is useful and I urge you to take advantage of the EPA Audit Policy. Although an EMR is more limited in scope than an environmental audit, each can help in identifying potential compliance problems and needed corrections.

Under policies like EPA's EMR and audit policies, facilities will disclose the results of the reviews to the public. By contrast, some states currently allow environmental auditing information to be kept secret and may provide blanket immunity from enforcement actions for violations uncovered through the confidential audit. The federal government should not undermine the public's trust by relying on these state laws to keep environmental information secret. In speaking out against environmental audit privilege and immunity laws, Vice President Al Gore, EPA Assistant Administrator Steven Herman, and Assistant Attorney General Lois Schiffer each have cited the public distrust caused by these laws.

Sustained future compliance and pollution prevention behavior ultimately will earn the public's trust. The success of programs like ENVVEST, featured in this issue, presents opportunities for federal agencies to improve environmental practices and share important information with the public. Regulatory flexibility is earned but first, facilities must comply with the law. FFEO will do everything it can to assist federal agencies with compliance endeavors. By complying with the law, federal agencies will earn not only the regulators' trust: they will gain the trust of the public, thereby paving the way for greater regulatory flexibility along the lines of ENVVEST.

In closing, I hope this issue offers information that is new and useful to you. Let me know!



Craig Hooks, Acting Director, FFEO

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EPA CLARIFIES ADMINISTRATIVE RULES

On March 18, 1996, EPA published a technical revision to its Part 22 administrative hearing procedures, providing federal departments and agencies which are the subject of an EPA administrative compliance order for RCRA violations with the opportunity to confer with the EPA Administrator. The head of the federal department or agency would have 30 days following an Environmental Appeals Board ruling to request such a conference, and the decision made by the Administrator after such a conference would constitute the final order. The new provision brings EPA's procedures in conformance with the Federal Facility Compliance Act of 1992. For more information, contact Sally Dalzell, FFEO, 202-564-2510.

RCRA ADMINISTRATIVE ORDER ANALYSIS

The Planning, Prevention, and Compliance Staff of FFEO is finalizing a detailed review of 104 RCRA Administrative Orders issued by EPA Regions and the states from October 1992 (the effective date of the Federal Facility Compliance Act) through December 1995. The study objectives are to determine federal agency areas of non-compliance; time lines (e. g. , issue and settlement dates); the frequency of specific violations cited; penalty amounts assessed and/or paid; and Supplemental Environmental Project amounts (if any). The study is expected to be released in Fall 1996 and is intended for use by federal agencies and regulators.

Preliminary findings include:

- Average proposed penalties were consistently higher for federal orders ($348,571) than for state orders ($56,732).
- Of the 104 administrative orders, 704 individual violations were identified. The three most frequent violations were: (1) failure to label or improper labeling of containers (91 violations); (2) incomplete or failure to make a hazardous waste determination (55 violations); and (3) failure to indicate accumulation or storage start dates on containers.

EPA ISSUES GUIDANCE ON PARTICIPATION IN DOE BUDGET PROCESS

In response to the Department of Energy's invitation to stakeholders and regulators to provide input into its FY 1998 budget building process, EPA has issued guidance to promote involvement by the EPA Regional Offices. *"Guidance for EPA Participation in DOE FY 1998 Environmental Management Budget Formulation"* emphasizes the importance of efforts to identify and implement cost efficiencies at DOE field sites and the importance of complying with existing Interagency Agreements.

The guidance restates the requirement contained in Executive Order 12088 that DOE will seek sufficient funding for compliance with pollution control requirements and describes the limited circumstances under which EPA would consider whether to renegotiate milestones in Interagency Agreements. It lists the factors to be considered in making such decisions, including the extent of DOE's collaboration in reaching agreement on priorities and whether there have been substantive efforts to obtain the viewpoints of stakeholders regarding changes to the agreements.

Former FFEO Director Barry Breen commended DOE for being "much more open and successful at involving the public and regulatory agencies as compared to past years." However, he reiterated EPA concerns about cleanup commitments, cost savings, and the adequacy of DOE's Risk Data Sheet process. "We remain concerned that budget appears to drive cleanup," noted Breen. "It is vitally important that DOE keep the commitments that it has made to the public in its cleanup agreements. "

Copies of the reports mentioned in this section may be obtained through Enviroene. See page 12 for access information.

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tive, with participants providing numerous recommendations on each topic area.

I believe the first EPA Enforcement Roundtable was a huge success and a milestone for OECA. OECA Assistant Administrator Steve Herman spent two days at the Roundtable, taking time to listen to the stakeholders and to talk with them about their issues of concern. OECA is exploring the possibility of hosting additional Enforcement Roundtables at other locations in the future.

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ensure that employee performance standards, efficiency ratings, or other accountability measures, are clearly defined to include environmental issues as appropriate, and that exceptional performance is recognized and rewarded.

5. **Measurement and Improvement:**
The agency develops and implements a program to assess progress toward meeting its environmental goals and uses the results to improve environmental performance. For example, the agency might institute a formal benchmarking program to compare its environmental operations with other organizations and management standards, where appropriate.

Each of the five principles, which describe the overall purpose of the step in the management cycle, is supported by performance objectives. The performance objectives provide more details on the tools and mechanisms by which the principles can be implemented.

For more information, contact Andrew Cherry at 202-564-5011.

ENVIRONMENTAL CHALLENGE AWARD DEADLINE EXTENDED TO MARCH 3, 1997

EPA is accepting nominations of individuals for the first-ever Executive Order 12856 Environmental Challenge Award for individuals. These awards will recognize individuals that have demonstrated outstanding leadership in implementing the pollution prevention provisions of the 1993 Executive Order #12856 on Federal Compliance with Right-to-Know Laws and Pollution Prevention. EPA expects to incorporate the EO 12856 Challenge Awards with the 1997 White House Closing the Circle Awards. The date for the Closing the Circle nominations is not extended by this notice.

Nominations for the Challenge Award must include the name, location, facility address, telephone and fax number, e-mail address (if available), and the name of the person nominating the individual. Include a title and abstract of no more than 100 words and a description of the individual achievement. The description should be no longer than three 8.5 x 11" pages, duplex printed on recycled paper containing at least 20% post-consumer content. Challenge nominations already submitted in coordination with the Closing the Circle nominations need not be resubmitted. EO 12856 individual Challenge nominations must be received by March 3, 1997 and should be mailed to FFEO Challenge Awards (2261A), 401 M St. SW, Washington, D.C. 20460. E-mail submissions must contain all the above information and can be sent to Garvey.Will@epamail.epa.gov. Attachments to E-mail messages must be in ASCII format. Any questions regarding format may be directed to Will Garvey at 202-564-2458.

LIST OF ACRONYMS

CAA	Clean Air Act
CWA	Clean Water Act
DOD	Department of Defense
DOE	Department of Energy
EPA	Environmental Protection Agency
FFCA	Federal Facility Compliance Act
FFEO	Federal Facilities Enforcement Office (EPA)
ISO	International Standard Organization
RCRA	Resource Conservation and Recovery Act
TSCA	Toxic Substances Control Act
TRI	Toxics Release Inventory
SDWA	Safe Drinking Water Act
USDA	U. S. Department of Agriculture

CALENDAR

April 7-10, 1997

ADPA

The 23rd Environmental Symposium and Exhibition of the American Defense Preparedness Association will be held in New Orleans on April 7-10, 1997. Contact Carey M. Jagels, tel: 703-247-2578, fax: 703-522-1885, E-mail: cjagels@adpa.org.

May 5-9, 1997

CALL FOR PAPERS — 1997 GLOBAL DEMILITARIZATION SYMPOSIUM & EXHIBITION

Organized by the Joint Ordnance Commanders Group and the American Defense Preparedness Assocation, the Symposium will be held in Reno, NV and will focus on the challenge of demilitarization and disposal of energetic materials. Deadline for submissions: Jan. 15, 1997. Contact: Jim Wheeler, tel: 815-273-8084; fax: 815-273-8717.

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