

ENVIRONMENTAL COMPLIANCE PROGRAM

I. Purpose

This directive establishes Department of Homeland Security (DHS) policy for the Environmental Compliance Program.

II. Scope

This directive applies to all DHS organizational elements.

III. Authorities

This directive is governed by numerous Public Laws and Executive Orders (E.O.), such as:

- A. E.O. 12088, "Federal Compliance With Pollution Control Standards," dated October 13, 1978, as amended.
- B. The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.)
- C. The Clean Air Act (42 U.S.C. 7401 et seq.)
- D. The Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.)
- E. The Federal Facility Compliance Act (42 U.S.C. 6961)
- F. The Toxic Substances Control Act (15 U.S.C. 2601 et seq.)
- G. The Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.)
- H. The Safe Drinking Water Act (42 U.S.C. 300 et seq.)
- I. The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136)

IV. Definitions

- A. All definitions pertinent to this directive may be found in the statutes listed in the Attachment and the Environmental Protection Agency's (EPA) regulations found in the appropriate parts of Title 40 of the Code of Federal Regulations (CFR).
- B. **Designated DHS Official**: Senior DHS officials as designated by the Secretary, Deputy Secretary, or Under Secretaries.

V. Responsibilities

- A. **The Under Secretary for Management** is the Departmental Environmental Compliance Official and is responsible for the establishment of the overall policy and guidelines to carry out E.O. 12088 within the Department.
- B. **All Under Secretaries and DHS Officials**: As it relates to their respective directorates, organizational elements and offices, shall:
1. Implement E.O. 12088 within their respective organizations and comply with its requirements and the policies and procedures established by the Under Secretary for Management and the Chief of Administrative Services;
 2. Designate a senior management official with program responsibility for meeting the provisions of E.O. 12088 and this directive, and notify the Under Secretary for Management of the designation, in writing, no later than 60 days after the date of this directive;
 3. Coordinate environmental program activities with the Office of the Under Secretary for Management;
 4. Provide to the Under Secretary for Management a copy of each notice of violation, compliance agreement, administrative order, consent order or equivalent document (regarding environmental pollution at a facility) issued by Federal, State or local regulatory enforcement organization within 30 days of receipt of the document; and
 5. Develop/update any internal organizational element/office specific procedures necessary to carry out the requirements of this directive within 180 days of the date of issuance.

C. **The Chief of Administrative Services** shall:

1. Provide oversight responsibilities for the management and direction of the Department-wide environmental compliance program;
2. Provide program support to the Under Secretary for Management in carrying out the requirements of environmental laws, policies and this directive;
3. Conduct oversight activities to assure that an effective environmental protection program is implemented throughout the Department which directs attention to identifying and controlling pollution problems;
4. Assist in resolving environmental compliance related problems;
5. Develop the pollution abatement program and evaluate its performance in accordance with appropriate criteria; and
6. Develop procedures for:
 - a. identifying and correcting program compliance weaknesses through management reviews, internal control reviews and other appropriate means; and
 - b. increasing organizational element environmental compliance.

VI. Policy & Procedures

A. **Policy**: All organizational elements will comply with E.O. 12088 and all Federal, State, interstate and local environmental laws as well as all policies and procedures established by the Under Secretary for Management and the Chief of Administrative Services. The designated senior manager from each organizational element shall ensure that all necessary actions are taken for prevention, control and abatement of environmental pollution with respect to their facilities and activities. Funding will be requested in the DHS budget to ensure compliance with applicable pollution control standards. The major Federal environmental laws that affect Homeland Security facilities are listed in the Attachment.

Organizational elements located in space provided through the General Services Administration (GSA) share this responsibility with GSA and must determine which environmental responsibilities are theirs and which are GSA's. In general, GSA will not take responsibility for hazardous wastes generated by a tenant or delegatee and any special purpose underground storage tanks required by a organizational element remain the organizational element's responsibility.

B. **Procedures**: All officials and employees shall comply with the environmental laws applicable to their jobs and responsibilities.

C. **The following references** are available on the Internet at www.access.gpo.gov or www.epa.gov/oeca/fedfac/fflex.html.

1. 40 CFR, Parts 1-799 "Protection of Environment."
2. "Code of Environmental Management Principles for Federal Agencies (CEMP)," EPA, March 1997 EPA-315-B-97-001.
3. "Environmental Management Systems Primer for Federal Facilities," Department of Energy, 1998, DOE/EH-0573.
4. "Environmental Audit Program Design Guidelines for Federal Agencies," EPA, 1997, EPA 300-B96-011.
5. "Generic Protocol for Conducting Environmental Audits of Federal Facilities," EPA, 1996, EPA 300-B-96-012A&B.

D. **Any questions or concerns** regarding this directive should be directed to the Under Secretary for Management, Office of Administrative Services.

FEDERAL ENVIRONMENTAL LAWS

WHICH HAVE MAJOR EFFECTS ON HOMELAND SECURITY FACILITIES

1. INTRODUCTION.

The following laws (with the exception of the Comprehensive Environmental Response, Compensation and Liability Act) permit EPA to delegate implementation responsibility and regulatory authority to a State if the State's regulations are equal to, or more stringent than, the Federal regulations. The majority of the programs have been delegated to the States. As a result, there are a multitude of State and local regulations of which Federal facility environmental program managers must be knowledgeable to ensure compliance. The most logical point of interface between the Homeland Security field organizations and the regulatory authorities is at the field level between the Homeland Security facility environmental program manager and the State or local environmental offices and/or the EPA regional office.

2. FEDERAL LAWS.

a. The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) regulates the discharge of pollutants into U.S. waters. Discharges may be directly into the waters of the U.S., or in the case of certain industrial discharges, the law applies to the effluent sent to the local public-owned treatment works. EPA has regulated storm water runoff, and this may also affect some facilities. The primary Homeland Security impact is for sewage at remote locations and for industrial discharges.

b. The Clean Air Act (42 U.S.C. 7401 et seq.) authorizes EPA to establish regulations limiting the discharge of pollutants into the atmosphere to protect and enhance the quality of the nation's air. The primary impacts to Homeland Security facilities would be in the areas of industrial emissions at the Mint and Engraving and Printing facilities, particulate matter, asbestos, the phase out of ozone-depleting compounds (both chlorofluorocarbons [CFCs] and hydro chlorofluorocarbons [HCFCs]), volatile organic compounds from industrial operations, and transportation management plans to minimize vehicle emissions.

c. The Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.) requires proper handling of solid and hazardous waste to protect human health and the environment. This law regulates hazardous waste from "cradle to grave" requiring testing and identification, manifesting and transportation, treatment, storage and disposal, in accordance with EPA regulations. If a facility is subject to this law, there are annual personnel training requirements that must be met. The law requires an affirmative procurement program addressing products with recovered material content. The law also regulates underground storage tanks.

ATTACHMENT A

- d. The Federal Facility Compliance Act (42 U.S.C. 6961) expressly waives any immunity applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine, or reasonable service charge. This amends the Resource Conservation and Recovery Act to reaffirm that each department, agency, instrumentality, agent, employee and officer of the United States be subject to all of the provisions of Federal, state, interstate, and local solid waste and hazardous waste laws and regulations. Agencies are liable for civil penalties, and individual employees are liable for criminal penalties.
- e. The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) authorizes EPA to issue regulations governing the use, manufacture, processing, distribution in commerce and disposal of chemical substances and mixtures which may present an unreasonable risk of injury to health or environment. Primary impact on Homeland Security is the regulation of asbestos and items containing polychlorinated biphenyls (PCBs).
- f. The Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) requires notification to EPA for releases of oil, hazardous substances and pollutants or contaminants to the environment and past releases, and authorizes EPA to require cleanup of the release.
- g. The Safe Drinking Water Act (42 U.S.C. 300 et seq.) The primary impact to Homeland Security facilities is to those that provide their own water supply to 25 or more people at least 60 days per year.
- h. The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) This Act requires that persons applying the subject chemicals be "certified applicators." This usually means hiring a certified professional rather than training organizational element personnel. This reduces risk of exposure to organizational element personnel.